United States Court of Appeals

for the Second Circuit

APPENDIX

Docket No. 75-7555

IN THE

United States Court of Appeals

For the Second Circuit

B

P/S

THOMAS C. GANGEMI, as President of the SYRACUSE DRAFTSMEN'S ASSOCIATION,

Appellee,

— v —

GENERAL ELECTRIC COMPANY,

Appellant.

On Appeal from the United States District Court
Northern District of New York

Civil No. 75-CV-277

APPENDIX

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United States Court of Appeals
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-vs-

GENERAL ELECTRIC COMPANY

APPELLANT

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MEMORANDUM-DECISION AND ORDER OF JUDGE FOLEY, filed 2-4-75.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THOMAS C. GANGEMI, as President of the Syracuse Draftsmen's Association,

Plaintiff,

-vs- 74-CV-492

GENERAL ELECTRIC COMPANY,

Defendant.

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JAMES T. FOLEY, D. J.

MEMORANDUM-DECISION and ORDER

The defendant, the General Electric Company, (hereafter GE) has removed the instant action from the Supreme Court of New York State pursuant to 28 U.S.C. § 1441, asserting that original jurisdiction in this Court exists pursuant to § 301(a) of the Labor Management Relations Act of 1947, 29 U.S.C. § 185(a). The action concerns the meaning of the bargaining agreement between GE and the Syracuse Draftsmen's Association (hereafter Association).

The plaintiff Association, by its President, Thomas C. Gangemi, originally commenced this action in New York State Supreme Court seeking and obtaining a temporary restraining order preventing proposed actions by GE to lay off some draftsmen and change the assignment or displace others. The order was granted on November 14, 1974, and vacated the next day upon motion by GE.

After removal to this District Court, the defendant GE filed

a motion to dismiss the action principally upon the grounds, inter alia, that the Association has failed to exhaust contractual remedies as required under Section 301 of the Labor Management Relations Act. The Association cross moved for a preliminary injunction or, alternatively, a remand of this case back to the courts of New York State. For reasons which will be fully discussed, the motion of GE to dismiss the complaint is hereby granted and the cross-motion of plaintiff for a preliminary injunction and remand are denied.

According to the complaint, this dispute began on November 1, 1974, when GE issued 32 lack of work notices and 33 displacement notices in its Heavy Military Electronics Department in its Syracuse Plant pursuant to the 1973-1976 Bargaining Agreement (hereafter Agreement), Article IX, entitled "Decreasing Forces". Those employees who received displacement notices rather than direct lay off notices had the potential power to "bump", i.e., displace an employee of lesser seniority under specified conditions. See Agreement, Article IX (2). These notices were to be effective on November 15, 1974, when bumping options would have to be exercised. The Association claims that these notices were defective for two reasons: First, the person who might be displaced by a senior employee by exercising this bumping option would not be accorded the full benefit of two weeks notice before being laid off as required under the contract. [see Agreement, Art. IX (4) (c)]; and second, GE proposed to retain seven draftsmen by immunizing them from being bumped by their seniors because of their unique "qualifications to perform the available work". See, Art. IX (4)(d). It is contended by the plaintiff that these seven draftsmen perform common jobs not requiring abilities beyond those of any ordinary draftsman. At this time none of the 32 draftsmen who could exercise his bumping option has chosen to do so.

The issue of two weeks notice being afforded to those draftsmen

who might be affected by the lack of work therefore seems moot because of the passage of almost three months since the issuance of the notices on November 1, 1974; certainly all parties have been on notice of possible displacement for more than two weeks. If plaintiff is tacitly arguing here, and it is not made clear, that the non-exercise of bumping rights was in protest pursuant to their reading of the contract as prohibiting GE's proposal for decreasing employment forces, then any reinstatement of the bumping rights will have to await a later determination of the merits of their claims under the Agreement.

Until recently, the parties were engaged in the "Negotiating Procedure" of Article III of the Agreement which involves three separate steps. While there is some disagreement over which step was being pursued when plaintiff filed this action, it is clear that the parties were not pursuing arbitration under the Agreement, Art. IV.

Before considering plaintiff's motion for a preliminary injunction, it is noteworthy that the motion to remand this case to the state courts was not seriously pressed upon oral argument and plaintiff's memorandum of law contains no further mention of the motion in that respect. Plaintiff could supply no reason to remand this case, and in my judgment, removal of this case was quite proper as it is within the original jurisdiction of this United States District Court. Avco Corp. v. Aero Lodge No. 735, Int'l Ass'n of Machinists and Aerospace Workers, 390 U.S. 557 (1968), rehearing den., 391 U.S. 929 (1968).

The tests that must be applied to a motion for a preliminary injunction are well known within this circuit. The moving party has the burden of clearly demonstrating a combination of either (1) clear likelihood of success on the merits and the possibility of irreparable damage, or (2) the existence of sufficiently serious

questions going to the merits and a balance of the equities tipping decidedly in favor of preliminary relief. Columbia Pictures Industries, Inc. v. American Broadcasting Companies, Inc., 501 F.2d 894 (2d Cir. 1974); American Brands, Inc. v. Playgirl, Inc., 498 F.2d 947 (2d Cir. 1974); Charlie's Girls, Inc. v. Revlon, Inc., 483 F.2d 953 (2d Cir. 1973); Sonesta International Hotels Corp. v. Wellington Associates, 482 F.2d 247 (2d Cir. 1973); Pride v. Community School Board, 482 F.2d 257 (2d Cir. 1973); Flack v. United Artists Corp., 378 F. Supp. 637 (S.D.N.Y. 1974). The Court of Appeals, Second Circuit, has clarified the implications of these requirements within the context of a §301 action such as this one. The Court said of the burden of showing likelihood of success that:

> [w]e think this must mean not simply some likelihood of success in compelling arbitration but in obtaining the award in aid of which the injunction is sought. Although courts have been directed by the Steelworkers' Trilogy, 363 U.S. 564, 574 (1960) to be liberal in construing agreements to arbitrate, this instruction does not extend to the grant of ancillary relief; on such matters they must continue to exercise the sound discretion of the chancellor. It would be inequitable in the last degree to grant an injunction pending arbitration which was costly to a defendant on the basis of a claim which although arguably arbitrable was plainly without merit.
>
> HOH v. Pepsico, Inc., 491 F.2d 556, 561 (2d Cir. 1974).

Following the reasoning of the Court of Appeals, Second Circuit, in HOH v. Pepsico, supra, the plaintiff, in my judgment, has failed to carry his burden of meeting these requirements. The likelihood of success factor, viewed from the potential of succeeding at arbitration, is whether GE can retain seven draftsmen despite laying off or displacing others who have more seniority, and thereby give the seven a "super seniority" status as it is termed by the plaintiff. It is not the function of the Court to delve into the merits of the claim or interpretation of the contract, since this is left to the arbitrator's expertise. Nevertheless, for purposes of the preliminary

injunction, a limited determination must be made at this juncture. Detroit News. Pub. Ass'n v. Detroit Typo. Un. No. 18, etc., 471 F.2d 872, 875 (6th Cir. 1972), cert. den., 411 U.S. 967 (1973). The crux of this dispute can be stated very narrowly in terms of the Agreement, Article IX (4)(d). The question is whether GE made a proper judgment under this article in granting the so-called super seniority status to seven employees. Aside from the mere assertion that GE did not exercise proper judgment in interpreting the article, plaintiff submits an affidavit by one of the employees who was given super seniority and immunized from lay off or displacement. In this affidavit, the employee avers that his work requires only the most fundamental and mundane of a draftsman's talents and it is impossible he concludes that he could not be replaced by those of his seniors with bumping rights over him. These assertions certainly have limited probative value to support the requirements needed for the drastic relief requested here.

The contractual language in the Agreement is itself very significant on how this judgment is to be made by GE management. Seniority, or total length of service is not characterized by the contract as the absolute consideration in management's decision to reduce the work force, however:

> total length of continuous service shall be the major factor determining the employees to be laid off or downgraded from among those having the ability to perform the available work.
>
> Agreement, Art. IX (4)(d). (emphasis supplied).

The qualification that the employee on the job be able to perform the work is again repeated in the same section and clearly delegates the power to management to determine, at least in the first instance, whether an employee is so qualified by mandating that an interview be held.

> When doubt exists on the part of management as to whether or not an employee is qualified to perform the available work and to displace a shorter service employee, the employee shall be interviewed before a final determination of his qualifications is made. Id.

The issue as presented by the parties is a question of whether the super seven draftsmen are specially qualified to perform certain available work, and thus whether GE's determination was correct under the contract. On such an issue, there is, in my judgment, no clearly likelihood of success that can be seen at this time that the Association will be able to show that GE's decision was incorrect. The fact is that GE seems to be exercising an authority that is expressly stated in the agreement, namely, to make judgments on who can perform certain available work. The affidavit of one of the members of the Association expressing his individual opinion that he is not indispensable, I find, inherently insufficient to show that from the management or corporate perspective the decision of GE was a violation of the bargaining agreement. Disputes of this type which involve technical evaluations of persons and contracts are good examples of the reasons behind the strong federal policy favoring arbitration. Such questions should be decided in the prior instance by an arbitrator who has the expertise to determine the technical abilities of employees and the meaning or limits of GE's authority to make such judgments under the contract. It would be inappropriate for GE to be forced into direct litigation over every managerial decision it makes, at least in cases as this one where the contract expressly gives GE the power to make these judgments. HOH v. Pepisco, Inc., supra. Whether GE was making the decision in bad faith, somehow incorrectly, or against the true meaning of the contract in its industrial context is penultimately for the arbitrator to decide before judicial action can be sanctioned.

The second prong of the first test for a preliminary injunction requires a finding of irreparable harm, and here again I find no persuasive showing of irreparable harm by the Association. The extent of the harm that might befall those GE draftsmen who are laid off or who suffer demotion in grade or reduction in salary would certainly be reparable by an award of money damages and reinstatement

of position. Sanders v. Air Line Pilots Association, International, 473 F.2d 244, 248 (2d Cir. 1972); see also, Sampson v. Murray, 415 U.S. 61, 91-92 and 92 n. 68 (1974); Slade v. Shearson, Hammill & Co., Inc., 356 F. Supp. 304 (S.D.N.Y. 1973), affirmed 486 F.2d 1395 (1973); Siu De Puerto Rico v. Virgin Islands Port Authority, 334 F. Supp. 510 (D.V.I., St. Croix 1971); cf. Great Northern Ry. Co. v. Lumber & Sawmill Workers, 140 F. Supp. 393 (D. Mont. 1955), aff'd 232 F.2d 628 (9th Cir. 1956), cert. den., 352 U.S. 837 (1956). Plaintiff tries to show a harm in the exercise of bumping rights, but there can be no irreparable harm in terms of loss of bumping rights by senior employees either because according to plaintiff President Thomas Gangemi, none of the 32 draftsmen who could exercise such an option has chosen to do so or if they really wanted to exercise them and did not, based on their interpretation of the contract, only a favorable determination of the meaning of the contract will vindicate them. Without knowing which of the bumping options will in fact be exercised and whether the exercise would be proper under the contract, it is speculative at this stage to hold that there will be irreparable harm. However, even assuming arguendo some injury and interference with contractual bumping rights by GE's grant of super seniority status to seven draftsmen, reinstatement to the appropriate status and salary as well as monetary damages could make an injured employee whole and thus there is no irreparable injury on this basis. Adamszewski v. Local Lodge 1487, Int'l Ass'n of M. & A. Wkrs., 496 F.2d 777 (7th Cir. 1974), petition for cert. filed 9/3/74, 43 U.S. Law Week 3217 (Oct. 15, 1974); Sanders v. Air Line Pilots Association International, 361 F. Supp. 670, 675 (S.D.N.Y. 1973). Finally, it has been held that the interest of the Association in enforcing the contract per se does not amount to irreparable harm even though the protection of wages was involved. International Union of E., R. & M. Wkrs. v. General

Electric Co., 341 F.2d 571 (2d Cir. 1965).

There is some dispute over the contractual stage the parties were operating under in attempting to resolve this grievance. However, such questions are not within the province of the court but are rather procedural in nature and therefore also matters, I believe, for the arbitrator to decide. John Wiley & Sons v. Livingston, 376 U.S. 543, 557-558 (1964); cf. Larsen v. American Airlines, Inc., 313 F.2d 599, 603 (2d Cir. 1963); Amalgamated Food Emp. U., Local No. 590 v. National Tea Co., 346 F. Supp. 875, 880 (W.D. Pa. 1972).

The most significant question to be decided here is whether arbitration must be attempted as a prerequisite to litigation under § 301. As previously noted, it is a well known and very strong federal policy that resort be had to any arbitration clauses provided by the parties in their agreement. Republic Steel Corp. v. Maddox, 379 U.S. 650 (1965); United Steelworkers of America v. American Manufacturing Co., 363 U.S. 564 (1960); cf. Andrews v. Louisville & Nashville R. Co., 406 U.S. 320 (1972). The exceptions to the rule of exhaustion are few. See Schum v. South Buffalo Railway Co., 496 F.2d 328 (2d Cir. 1974); Peltzman v. Central Gulf Lines, Inc., 497 F.2d 332, 335 n. 5 (2d Cir. 1974). The plaintiff however attempts to argue one of these exceptions, namely, the arbitration clause in the instant Agreement is optional and not mandatory. As the Supreme Court has recently said:

> [n]o obligation to arbitrate a labor dispute arises solely by operation of law. The law compels a party to submit his grievance to arbitration only if he has contracted to do so.
>
> Gateway Coal Co. v. United Mine Workers of America, 414 U.S. 368, 374 (1974).

An arbitration clause does not necessarily have to be mandatory and binding upon the parties; it can be written to allow access to a court of law at the will of either party. See e.g., Vaca v. Sipes,

386 U.S. 171, 184 n. 9; Independent Oil Workers at Paulsboro, N.J. v. Mobile Oil Corp., 441 F.2d 651 (3rd Cir. 1971). The Agreement at issue here cannot be read in such a manner. Plaintiff argues that the word "may" contained in the arbitration clause (Art. IV) indicates that the arbitration procedure was meant to be permissive not optional. Additionally, plaintiff points out that "prior written mutual agreement of the Association and the Company" is also a necessary prerequisite for arbitration and this indicates that either party may refuse to arbitrate any issues and choose litigation instead. I find neither of these arguments persuasive. The word "may" potentially has two meanings -- a permissive one or an imperative one -- e.g., when used in a statute, rule or contract. See Webster's Third New International Dictionary, Unabridged (1965), p. 1396; Ballentine Law Dictionary, 1948 ed., pp. 803-804. The proper usage of the word in a law or contract depends upon the context in which it is used. United States v. Cook, 432 F.2d 1093, 1098 (7th Cir. 1970); Thompson v. Clifford, 408 F.2d 154, 158 (D.C. Cir. 1968). The Supreme Court has settled upon the meaning to be accorded in the context of collective bargaining agreements and litigation under § 301. The Court said:

> [u]se of the permissive "may" does not of itself reveal a clear understanding between the contracting parties that individual employees, unlike either the union or the employer, are free to avoid the contract procedure and its time limitations in favor of a judicial suit. Any doubts must be resolved against such an interpretation. * * *.
>
> Republic Steel Corp. v. Maddox, supra, 379 U.S. 658-659; see also Bonnot v. Congress of Independent Unions Local #14, 331 F.2d 355, 359 (8th Cir. 1964)(per Blackmun, J.) (and cases cited therein); Anheuser-Busch, Inc. v. Brewery Driv. & H. ETC., Loc. No. 133, 346 F. Supp. 702, 706 (E.D. Mo., E.D. 1972); cf. Pacilio v. Pennsylvania Railroad Company, 381 F.2d 570, 572 n. 1 (2d Cir. 1967).

It is perhaps an understatement to say that federal labor policy as enunciated by judicial decisions strongly favors resort to any

arbitration clause that is placed in an agreement. United Steelworkers of America v. Warrior & Gulf Co., 363 U.S. 574, 584-585 (1960). Any agreement between the parties contrary to this policy must be quite clearly expressed, as stated by the Court of Appeals, Second Circuit:

> a court will not order arbitration when intended preclusive effect of a procedural provision and the fact of breach are both so plain that no rational mind could hurdle the barrier.
>
> Rochester Telephone Corp. v. Communication Workers of America, 340 F.2d 237, 239 (2d Cir. 1965).

This policy mandates that this court implement the arbitration clause in the bargaining agreement involved here to the fullest extent possible. Textile Workers of America v. Lincoln Mills, 353 U.S. 448, 451 (1957); Haynes v. United Pipe & Foundry Company, 362 F.2d 414 (5th Cir. 1966); Butler v. Yellow Freight System, Inc., 374 F. Supp. 747 (W.D. Mo., W.D. 1974). Therefore, the arbitration clause in my opinion will be presumed to be mandatory as its language expressly states. Bonnot v. Congress of Independent Unions Local #14, supra.

Lastly, I find unpersuasive plaintiff's remaining contention that the necessity of "prior written mutual agreement of the Association and the Company" necessarily means that the Arbitration clause is optional because either party may simply refuse to agree in writing. This is much too simplistic to escape the contractual obligation of arbitration. United Aircraft Corp. v. Canel Lodge No. 700, I.A. of M. & A.W., 314 F. Supp. 371, 375, aff'd; 436 F.2d 1 (2d Cir. 1970), cert. den. 402 U.S. 908 (1971). GE has not refused to arbitrate and, indeed, it could agree to arbitrate the grievance "only after it has been properly processed in accordance with the provisions of Article III", entitled "Negotiating Procedure". The Art. III negotiations had not been completed. However, even if there were a problem in obtaining mutual consent from the parties, this

fact alone would not necessarily negate the arbitration clause allowing immediate access to the courts. This court has the power to require the parties to make reasonable efforts to agree and where unsuccessful the court can formulate the issues for the parties. Socony Vacuum Men's Association v. Socony Mobil Oil Co., 369 F.2d 480 (2d Cir. 1966). Thus it is my judgment that the failure to exhaust the arbitration clause in the instant Agreement not only fails to show a likelihood of success on the merits of arbitration, but also indicates little reason to hold a balancing of the equities in plaintiff's favor.

> Beyond all this, and most significantly, the unions' case was lacking in equity because of their failure effectively to invoke arbitration remedies readily available to them.
>
> HOH v. Pepsico, Inc., supra, 491 F.2d 582.

In sum, plaintiff-association has not met the requirements of showing a likelihood of success, irreparable harm, or a balance of the equities in its favor. I additionally can perceive no significant issue going to the merits in need of preservation by the drastic remedy of an injunction. Plaintiff's cross-motion for a preliminary injunction or to remand the case is hereby denied. The motion by GE to dismiss the complaint for failure to exhaust contractual remedies must be and is hereby granted in light of the preceding discussion and for the reasons therein stated. Vaca v. Sipes, 386 U.S. 171 (1967); Ford v. General Electric Company, 395 F.2d 157 (7th Cir. 1968); Beriault v. Local 40, Super Cargoes & Check, I. L. & W. U., 340 F. Supp. 155 (D. Ore. 1972).

My findings of fact and conclusions of law for refusal of the interlocutory injunction are contained herein to comply with Fed. R. Civ. P. 52(a).

It is so Ordered.

Dated: February 4, 1975
Albany, New York

James T. Foley
UNITED STATES DISTRICT JUDGE

NOTICE OF PETITION TO COMPEL ARBITRATION,
filed 6-5-75.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE ARBITRATION

between

THOMAS C. GANGEMI, as President of the SYRACUSE DRAFTSMEN'S ASSOCIATION,
7210 Willow Road,
North Syracuse, New York 13212,

Petitioner,

and

GENERAL ELECTRIC COMPANY,
Electronics Parkway,
Liverpool, New York 13088,

Respondent.

U. S. DISTRICT COURT
N. D. OF N. Y.
FILED
JUN 5 1975
AT ____ O'CLOCK ____ M.
J. R. SCULLY, Clerk
UTICA

75-CV-[illegible]

Civil Action No. _____

TO: GENERAL ELECTRIC COMPANY
Electronics Parkway
Liverpool, New York 13088

PLEASE TAKE NOTICE, that on the annexed Petition of Thomas C. Gangemi, as President of the Syracuse Draftsmen's Association, the undersigned will move the above Court at the United States Court House, Federal Building, Albany, New York, on the 16th day of June, 1975, at ten o'clock in the forenoon of that day, or as soon thereafter as counsel can be heard, for an order directing that an arbitration proceed in the manner provided in the agreement executed by and between the Syracuse Draftsmen's Association

and the General Electric Company, said agreement having an effective date of July 30, 1973 and a termination date of August 29, 1976.

DATED: June 4, 1975

BLITMAN AND KING
Charles E. Blitman, of Counsel

Charles E. Blitman

Office and Post Office Address
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Syracuse, New York 13202

Telephone: (315) 422-7111

PETITION TO COMPEL ARBITRATION.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE ARBITRATION between THOMAS C. GANGEMI, as President of the SYRACUSE DRAFTSMEN'S ASSOCIATION, 7210 Willow Road, North Syracuse, New York 13212, Petitioner, and GENERAL ELECTRIC COMPANY, Electronics Parkway, Liverpool, New York 13088, Respondent.	P E T I T I O N

THOMAS C. GANGEMI, as President of the Syracuse Draftsmen's Association, respectfully shows:

1. This action arises under Section 301 of the Labor Management Relations Act of 1947, as amended (29 U.S.C. 185) and the United States Arbitration Act (9 U.S.C. Section 4).

2. Petitioner, Syracuse Draftsmen's Association, is a labor organization within the meaning of Section 2 and Section 301 of the Labor Management Relations Act of 1947 as amended. Petitioner has an office for the transaction of business located at 7210 Willow Road, North Syracuse, New York 13212.

PETITION TO COMPEL ARBITRATION.

3. The Respondent, General Electric Company, upon information and belief, is a corporation licensed to do business in the State of New York, and is an employer in an industry affecting commerce within the meaning of Section 2 and Section 301 of the Labor Management Relations Act of 1947, as amended.

4. The Petitioner and the Respondent entered into a collective bargaining agreement executed on the 27th day of July, 1973, a copy of said Agreement is attached hereto and made a part hereof as Exhibit "A".

5. That the parties' collective bargaining agreement contains a grievance clause (Article III) which culminates in binding arbitration (Article IV).

6. That a grievance arose and has been processed pursuant to the parties' collective bargaining agreement relative to whether the Respondent properly implemented Article IX of the parties' collective bargaining agreement. A copy of that grievance is attached hereto and made a part hereof as Exhibit "B". The Respondent's response thereto is attached and made a part hereof as Exhibit "C".

7. Deponent respectfully refers the Court to a Memorandum-Decision and Order rendered by the Hon. James T. Foley, United States District Court Judge (74-CV-492), dated February 4, 19[illegible], relative to this grievance and other matters.

8. That Petitioner has exhausted the grievance procedure contained within the collective bargaining agreement and that in a letter dated February 26, 1975 the Petitioner requested

that Respondent proceed to arbitration on said grievance. A copy of said letter is attached hereto and made a part hereof as Exhibit "D".

9. That in a letter dated March 5, 1975, attached hereto and made a part hereof as Exhibit "E", Respondent indicated that it refused to arbitrate the grievance pursuant to the collective bargaining agreement. Respondent stated that it would only be willing to arbitrate under its own conditions, conditions not contained or required in the collective bargaining agreement.

10. That the Respondent has failed to proceed to arbitration over the aforesaid grievance.

WHEREFORE, your Petitioner moves this Court for an order that arbitration proceed in the manner provided for in the parties' collective bargaining agreement, together with such other and further relief as this Court may deem just and proper.

DATED: June 4, 1975

SYRACUSE DRAFTSMEN'S ASSOCIATION

BY: Thomas C. Cangemi
Thomas C. Cangemi
President

7210 Willow Road
North Syracuse, New York 13212

PETITION TO COMPEL ARBITRATION.

STATE OF NEW YORK :
COUNTY OF ONONDAGA : SS:
CITY OF SYRACUSE :

THOMAS C. GANGEMI, being duly sworn, deposes and says that deponent is the President of the Syracuse Draftsmen's Association, Petitioner herein; that deponent has read the foregoing Petition and knows the contents thereof; and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters, deponent believes to be true. This verification is made by deponent because Petitioner is a Union and deponent is an officer thereof, to wit, its President. The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows: an investigation of the facts with the Business Agent of the Petitioner and various communications with the Respondent.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Thomas C. Gangemi
Thomas C. Gangemi

Sworn to before me this 4TH
day of June, 1975.

Lora M. Eiholzer
Notary Public

LORA M. EIHOLZER
Notary Public in the State of New York
Qualified in Onon. Co. No. 34-1523150
My Commission Expires March 30, 1977

Exhibit A – Current Bargaining Agreement annexed to Petition to Compel Arbitration.

1973 - 1976

Bargaining Agreement

between

General Electric Company

and

Syracuse Draftsmen's

Association

GENERAL ELECTRIC

Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration.

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Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration.

AGREEMENT BETWEEN

THE GENERAL ELECTRIC COMPANY

AND

THE SYRACUSE DRAFTSMEN'S ASSOCIATION

Agreement between the General Electric Company, hereinafter referred to as the Company, and the Syracuse Draftsmen's Association hereinafter referred to as the Association.

ARTICLE I

RECOGNITION

The Company agrees to recognize the Association as the sole collective bargaining agency for those employees of the General Electric Company in Syracuse, New York, who have been certified in the Association Unit by the National Labor Relations Board in Case No. 3-R-1468.

All draftsmen of the Employer's Syracuse Electronics Work, Syracuse, New York, engaged in the production of working and manufacturing drawings in the capacity of drafting designers, drafting detailers, drafting tracers, drafting trainees, and drawing checkers, but excluding all clerical employees, all supervisory employees with authority to hire, promote, discipline or discharge other employees or effectively change the status of other employees or effectively recommend such action and all other employees, constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

ARTICLE II

RESPONSIBILITY OF THE PARTIES

The parties recognize that, under this Agreement, each of them has responsibilities for the welfare and security of the employees.

Subject only to any limitations stated in this agreement, or in any other agreement between the Company and the Association, the Association recognizes that the Company retains the exclusive right to manage its business, including (but not limited to) the right to determine the methods and means by which its operations are to be carried on, to direct the work force and to conduct its operations in a safe and effective manner. The Company recognizes that it is the responsibility of the Association to represent the employees effectively and fairly.

This Article does not modify or limit the rights of the parties, or of the employees, under any other provisions of this Agreement or under any other agreement between the Company and the Association, nor will it operate to deprive employees of any wage or other benefits to which they have been or will become entitled by virtue of an existing or future agreement between the Company and the Association.

ARTICLE III

NEGOTIATING PROCEDURE

SECTION 1

The Association will submit to the Company a list of representatives. This list shall not contain more than one representative for each immediate supervisor. Upon receipt of such list, the Company will furnish the Association with a corresponding list of supervisors who are to act as Company representatives, and further, with the names of managerial personnel who will normally occupy the positions referred to in Steps 2 and 3. The Company and the Association will update their respective lists as changes occur.

Grievances of employees who are on temporary assignment will be handled by the Association representative and the appropriate Company representative in the department in which the employee is working.

Step 1: Any individual may take up a grievance with his immediate supervisor, either alone or with his representative, or a representative may take up a grievance without an individual being present only upon the request of the individual. Any group of individuals may take up a group grievance with their immediate supervisor through their representative. Most grievances will be settled by the supervisor within three working days. If additional time is needed, the supervisor will take this up with the representative and a time limit for such settlement will be set by mutual agreement.

Step 2: If a settlement is not reached, or if a time limit for such settlement is not agreed upon, the representative may refer the grievance to the Negotiating Committee of the Association, who may contact the Manager - Union Relations in the appropriate department. A meeting will be held with the Manager - Union Relations or his designated representative within seven (7) working days and an answer will be given within seven (7) working days after the meeting has been held.

Step 3: If a settlement is not reached at this point, the Association may refer the grievance to the Manager - Area Union Relations, or his designated representative, who shall be designated by the Company to receive such grievance. A meeting will be arranged within ten (10) working days from the date of the notification by the Association, unless, for good reason, a different time limit is set by mutual agreement.

Grievances of a general nature may be filed by the President of the Association or the Chairman of the Negotiating Committee in the name of the Association. Any grievance of this nature will be filed at the second step of the grievance procedure.

If the Association would like a written answer to any grievance, the grievance will be submitted in writing to the Company. The Company will give a written answer on such grievances.

The grievance procedure established by this Article shall be used for the purpose of orderly negotiation between the parties concerning all claims, disputes, or other matters subject to collective bargaining between the parties during the term of this Agreement, whether or not such claims, disputes, or other matters involve the interpretation or application of this Agreement. It is understood that matters pertaining to progression schedules and bargaining unit work shall be subject to the grievance procedure.

SECTION 2 - Payment for Time on Association Activities

Payment for time spent during working hours by any of the Association's officers and representatives in its relations with the Company shall be limited to the following:

(a) The Company will pay the work group representative for a maximum of one and one half (1-1/2) hours per week for time spent handling recognized grievances at Step 1.

(b) During each fiscal month the Company will pay for a maximum of four (4) hours multiplied by the number of weeks in the GE fiscal month spent by members of the Association's grievance committee in discussing grievances with the Company at Step 2 and 3 meetings. This payment will be limited to a maximum of six (6) individuals during any given fiscal month.

In order to adhere to this section of the Agreement the procedure to follow is described below:

(c) The representatives will report to their Supervisor before engaging in any Association activity. The Supervisor will issue a voucher to the representative indicating the classification of the representative's business by placing a check mark in the appropriate space on the voucher.

(d) The Company will send to the Association a list of all representatives turning in lost time.

ARTICLE IV

ARBITRATION

Any individual grievance involving the interpretation and application of a provision of this Agreement may be submitted to arbitration only after it has been properly processed in accordance with the provisions of Article III and with prior written mutual agreement of the Association and the Company as executed by their authorized representatives.

Any individual grievance involving a disciplinary penalty (including discharge) imposed during the term of this Agreement upon an employee having more than one year of continuous service may be submitted to arbitration by either party if it remains unsettled after having been properly and fully processed in accordance with the provisions of Article III. In any such case, the standard to be applied by an arbitrator is that any such penalty shall be imposed only for just cause. In order to arbitrate such a case, the party seeking arbitration shall deliver a written request for arbitration to the other party within 30 days after the final decision of the Company has been given to the Association at Step 3 of the grievance procedure set forth in Article III. A copy of the request shall be sent to the American Arbitration Association. Thereafter, the case will be processed in accordance with the Voluntary Labor Arbitration Rules of the American Arbitration Association as amended and then in effect.

The award of an arbitrator upon any grievance subject to arbitration as herein provided shall be final and binding upon all parties to this Agreement, provided that no arbitrator shall have any authority or jurisdiction to add to, detract from, or in any way alter the provisions of this Agreement.

ARTICLE V

DISCRIMINATION AND COERCION

Neither the Company nor any of its supervisors or representatives shall discriminate against any employee because such employee is a member, officer or representative of the Association, nor will the Company discriminate against any employee in the payment of wages, assignment of jobs, seniority, promotion, transfer, layoff, discipline, discharge or any other term or condition of employment because of race, creed, color, religion, marital status, sex, age or national origin.

Neither the Association nor its officers or members will discriminate against, coerce or intimidate any employee because of membership or non-membership in the Association, or because of race, creed, color, religion, marital status, sex, age or national origin.

ARTICLE VI

COLLECTION OF DUES

The Company agrees to make a monthly payroll deduction of Association dues from the pay of those Association members who voluntarily sign on a form mutually agreed upon, individual authorizations for such deductions. Authorized deductions shall be made from his pay each month. An itemized checkoff list of the names of employees from whom dues have been withheld, together with the amount thereof, will be forwarded to the Treasurer of the Association no later than the fourth fiscal week of each month in which the deductions were made. The Association will furnish the Company with the name and address of the Treasurer.

When an employee transfers from one department to another his record of dues shall follow automatically.

If for any reason the Company fails to make deduction of members dues each month, the Company, over a reasonable period of time, will deduct an additional amount each pay period from the employees pay until such time that all back dues are collected.

Any such authorization shall be revokable by the individual employee by giving the Company notice in writing by registered letter at any time between September 20 and October 1 (inclusive) of any year during the term of this agreement or of any year during the term of each succeeding applicable collective bargaining agreement between the parties hereto, or ten (10) days prior to the termination date of each succeeding agreement.

ARTICLE VII

CLASSIFICATION

SECTION 1

1. All employees in the bargaining unit will be classified in accordance with the latest list of job definitions.

2. All paid rates will be on listed step rates in accordance with the current wage agreement.

3. The performance of each employee will be appraised and reviewed with him at least annually. A copy of such appraisal will be available for the employee's own use upon his request.

4. The Association will be furnished with the latest job definitions, job rates and step rates applicable to the unit.

5. Each new employee will be advised in writing of his classification and step rate.

6. An employee who is re-classified will be advised in writing of his new classification and step rate.

7. If an employee has a question concerning his personnel file that is maintained by his supervisor, this record will be reviewed with him upon request.

SECTION 2

1. Upon completion of the Trainee program, the employee will be re-classified as a Detailer 3 and paid at the minus step.

2. A Detailer 3 at the minus one step will be paid the job rate effective no later than the Monday following completion of six (6) months in the classification.

3. A Detailer 2 at the minus one step will be paid the job rate effective no later than the Monday following completion of six (6) months in the classification.

4. A Detailer 1 at the minus one step will be paid the job rate effective no later than the Monday following completion of nine (9) months in the classification.

5. A Design III at the job rate minus one step will be paid the job rate of Design III effective no later than the Monday following completion of one (1) year in the classification.

6. A Design II at the job rate minus one step will be paid the job rate of Design II effective no later than the Monday following completion of one and one half (1-1/2) years in the classification.

7. A Design I at the job rate minus one step will be paid the job rate of Design I effective no later than the Monday following completion of two (2) years in the classification.

It is understood that all pay increases above job rate in any of the above Detailer or Designer classification will be strictly on merit at the discretion of management.

ARTICLE VIII

SENIORITY

1. Seniority within the bargaining unit shall be equal to the employee's continuous service with the Company except as outlined below:

2. Seniority shall be broken or adjusted wherever continuity of service is broken or adjusted in accordance with Article XV of this Agreement. Further, an employee who voluntarily leaves this bargaining unit shall immediately lose all rights within this bargaining unit.

Except:

a. Those employees who leave subsequent to October 27, 1969 to accept employment in drafting supervision in the Syracuse Plants, will continue

to accumulate seniority, while out of the bargaining unit, for a period not to exceed five (5) years and may displace into his former classification in the bargaining unit in accordance with such seniority. Such employee after displacing into the bargaining unit, shall have total seniority equal to his seniority at the time he left the bargaining unit plus accumulated time outside the bargaining unit up to five (5) years and shall then accumulate seniority at the ratio of two (2) months seniority for each month worked thereafter until he shall have accumulated seniority equal to his total continuous service. It is understood that the foregoing limitation on seniority shall not apply to any such employee who left the bargaining unit prior to October 27, 1969. In the event that an employee cannot be placed on his former classification under this Section a, he will then displace into any classification in accordance with his seniority, provided that he is qualified to perform the work and that the new classification is not higher than the highest classification that he had previously held in the bargaining unit, and

b. Employees with continuity of service and with prior service in the bargaining unit who left the bargaining unit for reasons other than lack of work and are subsequently returned to bargaining unit jobs shall return with no seniority. However, such employees will immediately begin to accumulate seniority and after they shall have worked a continuous period of six (6) months, they shall be credited with the seniority they had previously accumulated in the bargaining unit and shall then accumulate seniority at the ratio of two (2) months seniority for each month worked thereafter until they shall have accumulated seniority equal to their total continuous service, and

c. Employees with continuity of service entering the bargaining unit for the first time will start with no seniority. However, such employees will immediately begin to accumulate seniority and after they shall have worked a continuous period of one (1) year, will be credited at the ratio of two months' seniority for each month worked thereafter until they shall have accumulated seniority equal to their total continuous service.

ARTICLE IX

DECREASING FORCES

1. If it becomes necessary to make a general reduction of force in any department, the employees to be laid off or downgraded first will be selected from among those with less than one (1) year's service in the affected department and classification. If necessary to make further reductions within the department, openings will be created in the other departments by laying off employees from the affected classification who have less than one (1) year's service.

2. If it becomes necessary to make further reductions this Section (Section 2) will be followed.

A draftsman affected by a lack of work will be able to displace a shorter service draftsman as follows:

(a) A Draftsman affected by a lack of work will displace the shortest service draftsman within his classification and within his Department.

(b) The draftsman who is thus displaced will then displace the shortest service draftsman within his classification in the bargaining unit, regardless of Department.

(c) The number of displacements of Designers I and Designers II from one department into any other Department shall then be limited only to the extent that no one Department will be required to take displacements of more than one (1) out of three (3) of the total of its Designers I and Designers II in any twelve (12) month period, based on the total number of Designers I and Designers II in the classifications as of the time such displacements are made.

(i) Any Designer who has displaced into another Department is subject to displacement by longer serviced Designers.

(ii) An affected Department will accept displacements beyond the one (1) out of three (3) limit whenever a Designer in their Department becomes the shortest service draftsman in the bargaining unit.

(iii) In unusual circumstances, individual Departments may agree to accept displacements beyond these limits.

(iv) An employee who has been on downgrade out of seniority as a result of the limitations set forth in (c) above shall not be required to remain on such downgrade for more than twelve (12) months if there are shorter seniority employees holding a classification which the downgraded employee previously held and for which he is fully qualified to perform. In such event, a realignment by seniority will be made within the bargaining unit among employees involved.

3. If a draftsman is not eligible to displace laterally within his Department or within the bargaining unit, the following applies providing he has greater seniority:

(a) He will first displace the shortest service draftsman in the next lower classification for draftsmen (for example, Designer II to Designer III) within his Department.

(b) If there is no such shorter service individual within his Department, he will then displace the shortest service draftsman in the next lower drafting classification within the bargaining unit subject to those conditions outlined in Section 2, paragraphs (b) and (c) above.

(c) In reference to Section 3, paragraph (a) and (b) above, a draftsman unable to displace into the next lower classification may progressively displace into lower drafting classifications.

(d) A draftsman who displaces into a lower classification will be paid the top rate of such lower classification but in no case shall the rate paid exceed his rate prior to displacement.

(e) If as a result of a lack of work a draftsman would be required to take a reduction of two (2) steps or more in pay, he may elect to take a lack of work and will be subject to recall to his former classification within the bargaining unit.

4. GENERAL

(a) Trainees shall not be retained during the period of a reduction in forces which affects the Detailers classification.

(b) For purposes of this reduction in forces procedure, Apprentices who have been on the program for one (1) year, but less than two (2), shall be considered as Detailers 3. Apprentices who have been on the program two (2) years or more shall be considered as Detailers 2.

(c) Draftsmen will be subject to the provisions of the Income Extension Aid Plan and any draftsman to be affected by a lack of work will be given a minimum of two weeks written notice.

(d) In selecting employees to be laid off or downgraded, subject to the conditions of Section 1 of this Article, total length of continuous service shall be the major factor determining the employees to be laid off or downgraded from among those having the ability to perform the available work.

Subject to the conditions of Section 1 of this Article, an employee may be permitted to displace a shorter service employee, provided he is qualified to perform the available work. When doubt exists on the part of management as to whether or not an employee is qualified to perform the available work and to displace a shorter service employee, the employee shall be interviewed before a final determination of his qualifications is made.

(e) Any employee selected for dismissal or extended layoff will be advised personally of the reasons therefore. Any employee may, if he wishes, have a representative present at the time the reasons are given.

(f) No movement described in this Article shall result in an employee displacing into a classification higher than the one held at the start of a reduction in force.

ARTICLE X

INCREASING FORCES, JOB NOTIFICATION

SECTION 1

As openings occur in the Drafting Sections, employees laid off for lack of work or employees downgraded due to lack of work will be called back in the inverse order in which they were laid off or downgraded provided the opening is in a classification no higher than that previously held by the employee. An employee called back shall return to work with at least the same classification and rate as that which he had when the layoff or downgrade took place, except as noted below:

If it is not feasible to provide an employee a position with the classification and rate he held at time of layoff, he or she may refuse to accept a position with a lesser classification without changing his or her status as an employee on layoff.

SECTION 2

If, after exhausting the steps set forth in Section 1 of this Article, open jobs remain, the following steps shall be utilized:

(a) The department having the opening shall attempt to fill the position from among its employees covered by the unit.

(b) In the event that no qualified employees are available in the department, the Central Employment Office shall be notified that the opening exists.

(c) The Central Employment Office shall then advise all departments that the opening exists, and shall request the departments to supply the names of those employees believed qualified to fill the opening. When a department submits the name of an employee it shall also advise the employee that he is being recommended.

(d) Upon receiving from Central Employment Office the list of qualified candidates, the department having the open position shall interview the candidates and shall select the employee most qualified to meet its requirements. In the event that candidates are considered equally qualified, seniority shall be the determining factor.

SECTION 3

To improve the opportunity for upward mobility of all employees represented by the Association and to continue to assure an equal opportunity for such employees to express their interests in and be considered for promotional opportunities without regard to race, color, sex, creed, marital status, age or national origin, the Company and the Association agree that where practical there will be advance notice of primary job openings which are to be filled by upgrading. Interested employees may apply for consideration for these openings in accordance with Company procedures. This agreement shall not alter any obligation or right not to fill an opening by upgrading nor shall it limit any right an employee or the Association may have under Article III, IV and XXI of this Agreement to protest a selection.

SECTION 4

If the Company is unable to find a qualified employee among present employees, it shall secure qualified candidates from whatever source may be available.

(go to page 12)

Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration.

ARTICLE XI

LAYOFF EXEMPTION FOR ASSOCIATION OFFICIALS

1. Upon written request of the Association, an employee who is an official of this Association and, who has accumulated six (6) months or more of service credits, shall be exempt from layoff or downgrade under the provisions of Article IX so long as work for which he is qualified is available within the bargaining unit. This provision shall apply to those four officers and those six members of the negotiating committee whose names, titles and order of precedence have been furnished in writing to the Company prior to the giving of notice of layoff by the Company.

2. Upon written request of the Association, an employee who is a representative of the Association, and, who has accumulated twelve (12) months or more of continuous service shall be exempt from layoff or downgrade from his classification and rate so long as work within that classification is available within his work group. However, he must be fully qualified to perform such work in order to be exempt from layoff or downgrade under this provision. This provision shall apply only to those representatives whose names have been furnished to the Company, in writing, prior to the giving of notice of layoff by the Company. This provision shall not apply to more than one (1) representative for each immediate supervisor.

ARTICLE XII

OVERTIME

The Company will pay non-exempt employees for overtime as follows:

1. At the rate of time and one half for hours worked either:

   (a) In excess of 8 hours in any single workday; or

   (b) In excess of 40 hours in any given work week; or

   (c) For work performed on Saturday.

2. At the rate of double time for hours worked either:

   (a) On Sunday; or

   (b) In excess of 12 hours in any single work day.

3. At the rate of two and one half times his normal rate for hours worked on the holidays listed in Article XIII of this Agreement.

Any payments to exempt employees for work performed on Saturdays, Sundays, or observed holidays, or in excess of eight (8) hours per day or forty (40) hours per week, as well as the question of eligibility therefore, shall be governed by the established Company policies and practices, in effect at the time of signing this Agreement, governing such payments to exempt personnel.

ARTICLE XIII

HOLIDAYS

Employees covered by this Agreement shall receive their normal rate for each of the following Holidays not worked:

New Year's Day	Thanksgiving Day
Memorial Day	Friday following Thanksgiving
July 4	The day before Christmas
Labor Day	Christmas Day

(and a day to be mutually agreed upon.)

ARTICLE XIV

VACATIONS AND ALLOWANCES

1. PAID VACATION PERIODS

Vacations with pay will be granted in each calendar year (hereinafter called the "vacation year") to eligible employees as follows:

Years of Continuous Service	Vacation
1	2 weeks
5 (Effective 6/1/74)	2-1/2 weeks
10	3 weeks
15	4 weeks
25 (Effective 6/1/74)	5 weeks
30	5 weeks

2. ELIGIBILITY REQUIREMENTS

An employee whose continuity of service is unbroken as of December 31, or his last scheduled work day in the last week, of the year immediately preceding the vacation year shall qualify for a vacation or vacation allowance under the provisions of this Article if he:

(a) Actually performs work as an active employee of the Company during the last full calendar week of the year immediately preceding the vacation year; or

(b) Receives earnings from the Company directly applicable to all or part of such week.

If an employee has not qualified under (a) and (b) above, but returns to work without loss of continuity of service during the vacation year, he will become entitled to a vacation or vacation allowance in the vacation year after he shall have worked in the vacation year for one (1) month or for a period equal to that of his absence if his absence was less than one (1) month. Any such employee re-employed too late to work for one (1) month in the vacation year will be paid his vacation allowance and may have a portion of the time out considered as the vacation to which he is otherwise eligible.

3. DETERMINATION OF PAID VACATIONS

(a) Basic, or Guaranteed Vacations

The basic vacation period of an eligible employee shall be based upon his length of continuous service as of December 31 of the year immediately preceding the vacation year.

(b) Additional (or Initial) Vacation

An eligible employee whose continuing accumulation of service credits during a vacation year entitles him to an additional vacation under the provisions of Section 1 (or who completes his first year of continuous service during the vacation year) will receive such additional vacation (or his initial vacation), provided that an employee shall not be entitled to any such vacation in a vacation year unless he shall actually perform work as an active employee of the Company after having qualified for such vacation during such vacation year.

4. TERMINATION OF EMPLOYMENT

An employee who quits, is discharged, dies or retires will promptly thereafter receive the full vacation allowance to which he may then be entitled. In the case of employees who die, vacation allowances will be treated as wages owing the employee, and payment made accordingly.

5. USE OF VACATION TIME FOR ABSENCES OF EMPLOYEES

(a) Leave of Absence

An employee who is granted a leave of absence, may have the first portion of such leave designated as the period of any vacation to which he may then be entitled, if the Manager shall approve.

(b) Extended Illness, Accident or Layoff

An employee who is absent because of illness or accident, or because he is laid off for lack of work, may (except in a plant or part

thereof which is scheduled for an annual shutdown) have the first portion of such absence designated as the period of any vacation to which he may then be entitled, if the Manager shall approve.

(c) Incidental Absences

An employee whose absence is excused because of personal illness, personal business, holidays that are unpaid, temporary lack of work, or short work weeks (of 1/2 day or longer) may (with the Manager's approval) utilize extra vacation time to which he is entitled in excess of the scheduled shutdown or shutdowns or in excess of two weeks in locations where there is no shutdown for such absences in the form of vacation days. This time may be paid out in units of no less than 1/2 day periods.

(d) Other Absences

An employee who is absent from work for any reason other than those reasons listed above will not be entitled either to have his vacation scheduled or to receive a vacation allowance during the period of such absence.

(e) Vacation Payment Guarantee

An employee whose absence from work continues beyond the end of a vacation year and who did not receive in such vacation year the full vacation pay for which he had qualified, shall receive at the end of such absence or upon prior termination of service, a vacation allowance in lieu of any vacation to which he was still entitled at the end of the vacation year.

6. SCHEDULING OF VACATIONS

(a) Scheduling

In the event of one or more vacation shutdowns in any plant within the vacation year, employees will have their vacation time scheduled during the first such shutdown, if possible. Employees entitled to more vacation time than that taken in the first vacation shutdown will have the additional time scheduled during the subsequent vacation shutdown periods if any within the same year. Vacations taken at times other than during vacation shutdown periods will be scheduled to conform to requirements of the business at the Manager's discretion.

(b) Postponment or Division of Vacation

It will not be permissable to postpone vacations from one year to another, or to omit vacations and draw vacation pay allowances in lieu thereof, except with the written approval of the Manager. No vacation shall be divided unless it is of two weeks or more duration, in which case it may, with the consent of the Manager, be divided.

7. TIME OF VACATION PAYMENT

Except as otherwise provided in this Article, vacation allowances shall be paid to an employee on or about the last day worked by him prior to the beginning of the vacation scheduled for him except payments under 5(c).

8. HOLIDAY IN VACATION PERIOD

When the vacation period of any employee includes one of the holidays listed in Article XIII, an additional day of vacation will be granted with pay, if the holiday occurs during the scheduled workweek of the employee. In such case, the extra day must be taken immediately before or after as an extension of the vacation.

9. BASIS OF PAYMENT

(a) Vacations for all qualified salaried employees will be paid at straight time rates on the basis of the standard working schedule of five days - forty hours per week, except as noted in Paragraphs (b) and (c).

(b) Salaried employees on special short shifts will receive vacation allowances based on actual scheduled salary per week.

(c) Vacation payments to employees working extended schedules which averaged more than forty (40) hours per week during the weeks paid in the calendar year which immediately preceded the vacation year will have their weekly hour-multiplier determined as follows:

Average Weekly Hours	Weekly Hour-Multiplier
40 but less than 40.5	40
40.5 but less than 41	40.5
41 but less than 41.5	41
41.5 but less than 42	41.5
42 but less than 42.5	42
42.5 but less than 43	42.5
43 but less than 43.5	43
43.5 but less than 44	43.5
44 but less than 44.5	44
44.5 but less than 45	44.5
45 but less than 45.5	45
45.5 but less than 46	45.5

Average Weekly Hours	Weekly Hour-Multiplier
46 but less than 46.5	46
46.5 but less than 47	46.5
47 but less than 47.5	47
47.5 but less than 48	47.5
48 and higher	48 maximum

ARTICLE XV

CONTINUITY OF SERVICE

1. DEFINITION OF TERMS

(a) "Continuity of Service" designates the status of an employee who has service credits totaling 52 or more weeks.

(b) "Continuous Service" designates the length of each employee's continuity of service and shall equal the total service credits of an employee who has "continuity of service."

(c) "Service Credits" are credits for periods during which the employee is actually at work for the Company or for periods of absence for which credit is granted. (As provided in Section 3.)

(d) "Absence" is the period an employee is absent from work either with or without pay (except a paid vacation period), computed by subtracting the date following the last day worked from the date the employee returns to work. Each separate continuous period away from work shall be treated as a single absence from work.

(e) "Illness" shall include pregnancy, whenever the immediate supervisor is notified prior to absence from work.

2. LOSS OF SERVICE CREDITS AND CONTINUITY OF SERVICE

(a) Service credits previously accumulated and continuity of service, if any, will be lost whenever the employee:

(1) Quits, resigns, or is discharged.

(2) Is absent from work for more than two consecutive weeks without satisfactory explanation.

(3) Is absent from work because of personal illness or accident and fails to keep the Company notified monthly, stating the probable date of his return to work. In cases of pregnancy the first such notification must be given not later than eight weeks after termination of pregnancy.

(4) Is notified within a year from date of layoff that he may return but fails to return or give satisfactory explanation within two weeks.

(5) Is absent from work without satisfactory explanation beyond the period of any leave of absence granted him by the Company.

(6) Is absent from work for a continuous period of more than one year for any reason other than a leave of absence granted in advance.

(b) Individuals who at the time of layoff had more than three, but less than ten, years of continuous service shall, despite loss of service as a result of such layoff, be retained on the recall list and eligible for re-employment for a period of 24 months following layoff, or in the case of individuals with 10 or more years of continuous service at the time of layoff, for a period of 30 months.

(c) The service record of each employee laid off and re-employed after layoff, will be reviewed by the Company at the time of his re-employment and in each case, such employee will be notified as to his service credits and continuity of service, if any. If the Company re-employs an employee who has lost service credits and continuity of service because of layoff due to lack of work for more than one year, such employee shall have such service credits and continuity of service automatically restored, if such layoff did not exceed five years and if his continuous service at the time of his layoff was greater than the total length of such layoff.

(d) Employees who have left (or will leave) the Company with vested rights under the General Electric Pension Plan and who return to the Company with such vested rights still intact, (but not eligible for automatic service restoration under Section 2 (c)), will have their prior General Electric service, to the extent such service is covered by their vested benefits, restored after completing six months of service following their return to the Company. However, such restoration of service shall be contingent upon the employee's full repayment of Income Extension Aid benefits if such benefits were paid under the sixty (60) day lump sum

termination option of the Income Extension Aid Plan or as a result of a Plant closing termination which occurred within six months prior to the date of re-employment.

(e) If the Company re-employs a former employee who had accumulated ten or more years of continuous service at the time of a previous termination of Company employment (and the employee is not eligible for automatic service restoration under Section 2 (c)), the Company shall restore such continuous service after the employee has completed six months of service following re-employment.

Such service restoration will be contingent upon the employee's full repayment of Income Extension Aid benefits within a reasonable time after rehire, if such benefits were paid either under the 60-day lump sum termination option or as a lump sum due to a plant closing termination which occurred within six months prior to the date of re-employment.

Restoration of credited service under the Pension Plan shall be contingent on the employee's full repayment of required Pension Plan contribution plus interest within a reasonable time after rehire.

3. SERVICE CREDITS

Service credits for each employee shall be granted for periods during which the employee is actually at work for the Company, and service credits for absences shall be added to an employee's service, after re-employment with continuity of service or with prior service credits, as follows:

(a) Employees without continuity of service, when re-employed with prior service credits following absence due to a compensable accident will receive service credits for such lost time up to a maximum of three months. For all other absences of two weeks or less, such employees will receive service credits but, if absent more than two weeks, no service credit will be allowed for any part of such absence.

(b) Employees with continuity of service, when re-employed with continuity of service following absence due to illness, accident, compensable accident or layoff, will receive service credits for up to a total of the first twelve months of such absence. For all other absences of two weeks or less, such employees will receive service credits, but, if the absence is longer than two weeks, no service credits will be allowed for any part of such absence.

If an employee who has lost prior service credits or continuity of service is re-employed, he shall be considered a new employee and will not receive service credits (unless all or part of prior service credits are restored) for any time prior to the date of such re-employment.

ARTICLE XVI

BULLETIN BOARDS

The Company will furnish the Association with bulletin boards or sections of bulletin boards for the posting of notices. All notices shall have the approval of the Manager-Area Union Relations and he will also arrange for posting.

ARTICLE XVII

STATUS LISTS

Each Department of the Company's Syracuse Works shall provide the Association Secretary, each month, prior to the end of the second fiscal week of every month, a list of changes in the status of bargaining unit employees occurring during the previous fiscal month including hirings, terminations, transfers, upgrades, continuous service date with the Company, changes in continuity of service dates, and downgrades.

In the event none of the above listed changes occurred during the previous fiscal month, a letter so stating will be sent to the Association Secretary.

The Company will send to the Association Secretary semi-annually a complete up-to-date list of all Bargaining Unit Personnel including information on classification, and continuous service date.

ARTICLE XVIII

MILITARY PAY DIFFERENTIAL

Any employee with 30 days or more of service credits attending annual encampments of or training duty in the Armed Forces, State or National Guard or U.S. Reserves shall be granted a military pay differential, computed as set forth below, for a period of up to 17 days of such military service, during each fiscal year of the Federal Government. The employee shall be granted service credits for such 17 day period or portion thereof during which he is absent. Such military pay differential shall be the amount by which the employee's normal straight time wages or salary, calculated on the basis of a workweek up to a maximum of 40 hours, which the employee has lost by

virtue of such absence, exceeds any pay received for such absence from the Federal or State Government, recalculated to exclude the Government pay applicable to Saturdays and Sundays. Saturdays and Sundays shall be counted in computing the 17 day period. Such items as subsistence, rental and travel allowance shall not be included in determining pay received from the Government.

An employee with 30 days or more of service credits who does not exhaust the 17 calendar day period during the Federal Government fiscal year for his annual encampment or training duty and who is required during the same fiscal year to attend a weekend period of training shall be granted a military pay differential provided that the 17 calendar day period of military service in the same Federal Government fiscal year is not exceeded. Such military pay differential shall be the amount by which the employee's normal straight time pay, calculated on the basis of a non-premium workday, up to a maximum of eight (8) hours, which the employee has lost by virtue of such absence, exceeds any pay received for such day or days of absence from the Federal or State Government, recalculated to exclude the Government pay applicable to Saturdays and Sundays. Saturdays and Sundays shall be counted for the purpose of determining the extent to which the 17 calendar days of military service have been utilized in the same manner as annual encampment or training duty.

An employee who has less than 30 days of service credits may also be absent for the reasons and periods set forth above without deduction of service credits for such absence, but shall not be eligible for the military pay differential.

Employees will be permitted to take a vacation and attend a military encampment at separate times and be granted both a vacation pay allowance and a military pay differential. However, an employee may not receive a vacation pay allowance and a military pay differential for the same period. An employee may, however, receive a military pay differential for the period, if any, by which the time spent in such encampment exceeds such vacation, but not exceeding the maximums specified above.

An employee with 30 days or more of service credits, who is called out by the National Guard or the U.S. Reserves to perform temporary emergency duty (other than duty under an order by the President or Congress activating members or units of the Reserves or National Guard) due to a fire, flood or domestic civil disturbance, or other such disaster will be paid a military pay differential calculated as described above, for the pay lost by reason of such emergency duty, for a period not to exceed four weeks in any calendar year, and shall be granted service credits for such absence up to four weeks.

Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration.

ARTICLE XIX

JURY DUTY

When a salaried employee is called for service as a juror, he will continue to be paid his normal straight time salary up to eight (8) hours per day and forty (40) hours per week during the period of such service.

An employee will be similarly paid for time lost from work to appear in court pursuant to a proper subpoena except when he is a plaintiff, defendent or other party to the court proceeding.

ARTICLE XX

ABSENCE FOR DEATH IN FAMILY

An employee who is absent from work solely because of the death and funeral in his immediate family will be compensated for the time lost by him from his regular schedule by reason of such absence, for up to five (5) days for each such absence and up to eight hours per day. All such payments under this provision shall be made at the straight time rate. The immediate family, for purposes of payment under this Article shall be defined as spouse, children, step-children, adopted children, foster children (if living in the employee's home), grandchildren, grandparents, parents (or any person in the status of a parent), brother, or sister of the employee or spouse.

ARTICLE XXI

STRIKES AND LOCKOUTS

SECTION 1

There shall be no strike, sitdown, slowdown, employee demonstration or any other organized or concerted interference with work of any kind in connection with any matter subject to the grievance procedure, and no such interference with work shall be directly or indirectly authorized or sanctioned by the Association or its respective officers or representatives, unless and until all of the respective provisions of the successive steps of the grievance procedure set forth in Article III shall have been complied with by the Association or if the matter is submitted to arbitration as provided in Article IV.

In addition the Association will be required to give the Manager-Area Union Relations written or telegraphic notice not less than twenty-four (24) hours prior to the commencement of any such strike or work stoppage. The notice shall specify the date and time the strike or work stoppage is to commence, the grievance over which such strike is being called and the employee and/or employee groups within the bargaining unit that will be involved in such strike.

SECTION 2

The Company will not discipline and/or take any other action against an individual employee for filing a grievance in accordance with his right as set forth in Article III. Further the Company will not lock out any employee or employees over any issue until after all steps of the negotiating procedure as set forth in Article III have been complied with by the parties, or if the matter is submitted to arbitration as provided in Article IV.

ARTICLE XXII

SUBCONTRACTING

In performing drafting work, it is the general objective of management to utilize the drafting work force to the extent believed to be practical. It is recognized, however, that management may decide at times to subcontract drafting work. In such cases appropriate management representatives will give advance notification to the SDA representatives of the work group concerned, and will review the reasons for such subcontracting with the SDA or its representative upon request.

ARTICLE XXIII

DISCIPLINE

Disciplinary penalties shall be imposed only for just cause.

When the Company believes that a disciplinary action is warranted, the Association, under normal circumstances, will be advised before the penalty is imposed.

When a disciplinary action is imposed the Association will be notified in writing.

ARTICLE XXIV

BENEFITS

Company benefit plans and programs, in effect, at the time of signing this Agreement, which apply to bargaining unit employees shall be continued during the term of this Agreement.

ARTICLE XXV

ISSUES OF GENERAL APPLICATION

This Agreement, the 1973 Settlement Agreement, the 1973 Wage Agreement, the 1973 Pension, Insurance, and Savings & Security Agreement, and the 1973 Income Extension Aid Agreement between the parties are intended to be and shall be in full settlement of all issues which were the subject of collective bargaining between the parties in collective bargaining negotiations in 1973. Consequently, it is agreed that none of such issues shall be subject to collective bargaining during the term of this Agreement and there shall be no strike or lockout in connection with any such issue or issues; provided, however, that this provision shall not be construed to limit or modify the rights of the parties hereto under Article XXI and Article XXVI of this Agreement.

ARTICLE XXVI

DURATION, MODIFICATION AND TERMINATION

Section 1 - Duration

This Agreement shall be effective as of July 30, 1973, and shall continue in full force and effect to and including the 29th day of August 1976, and from year to year thereafter unless modified or terminated as hereinafter provided.

Section 2 - Modification & Termination

Either the Company or the Association may terminate this Agreement by written notice to the other not more than ninety days and not less than sixty days prior to August 29, 1976, or prior to August 29 of any subsequent year. Not more than fifteen days following receipt of such notice, collective bargaining negotiations shall commence between the parties for the purpose of considering the terms of a new agreement, and a proposal for a revision of wages which may be submitted by either the Company or the Association.

If either the Company or the Association desires to modify this Agreement, it shall not more than ninety days and not less than sixty days prior to August 29, 1976 or prior to August 29 of any subsequent year, so notify the other in writing. Not more than fifteen days following receipt of such notice, collective bargaining negotiations shall commence between the parties for the purpose of considering the changes in this Agreement, and a proposal for a revision of wages which may be submitted by either the Company or the Association.

If settlement is not reached by August 29, 1973, or August 29 of any subsequent year, this Agreement shall continue in full force and effect until the tenth day following written notice given by either the Company or the Association of its intention to terminate such Agreement, during which time there shall be no strike or lockout.

Dated: July 27, 1973

SYRACUSE DRAFTSMEN'S ASSOCIATION

Charles Dittrich
John J. Huddun
Lillian V. Gristwood
Arnold E. Fay, Jr.
Hugh Riley
Thomas C. Gangemi

GENERAL ELECTRIC COMPANY

John P. Davern
Earl A. Stebbins
Neal M. Fisher
Ronald L. Villani

Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration.

1973 - 1976 WAGE AGREEMENT

This Wage Agreement is made by and between the General Electric Company on behalf of its Syracuse Plants (hereinafter referred to as the "Company") and the Syracuse Draftsmen's Association (hereinafter referred to as the "Association") and shall be applicable only to employees represented by the Association at the Company's plants located at Syracuse, New York.

The Company and the Association hereby agree as follows:

1. The increases provided for herein include those made effective by previous wage agreements between the Company and the Association and, therefore, this Wage Agreement replaces and supersedes those previous Wage Agreements.

2. General Increases

Effective Date	Increase
June 25, 1973	$6.00 per week general salary increase.
June 24, 1974	$6.40 per week general salary increase.
June 23, 1975	$6.40 per week general salary increase.

3. The Company will provide cost-of-living increases as follows:

a) Cost-of-living adjustments effective on the dates shown below in the amount of forty cents (40¢) per week for each full three tenths of one percent (0.3%) by which the National Consumer Price Index (Base 1967=100), as published by the United States Bureau of Labor Statistics, increases in the applicable measurement period, up to the maximum amounts shown in the adjustment ranges below.

Effective Date	Measurement Period	Adjustment Range
June 25, 1973	October 1972 through April 1973	Up to $4.00 per week.
December 24, 1973	April 1973 through October 1973	Up to $2.00 per week.
December 23, 1974	October 1973 through October 1974	Minimum of $4.00 per week and up to $5.60 per week.

Effective Date	Measurement Period	Adjustment Range
December 22, 1975	October 1974 through October 1975	Up to $4.80 per week.

Note: The amounts stated are based on a normal work week of 40 hours.

b) No adjustment, retroactive or otherwise, shall be made in pay or benefits as a result of any revision which later may be made in the published figures for the Index for any month on the basis of which the cost-of-living calculation shall have been determined.

c) In the event the Bureau of Labor Statistics issues a revised Index with a conversion table by which the present Index can be made applicable to any change in said Index, the Association and the Company agreed to accept such conversion table. If no such conversion table is issued following any revision of the Index, the parties will promptly undertake negotiations solely with respect to agreeing upon a substitute formula for determining a comparable cost-of-living adjustment.

4. The salary increases noted in 1 and 2 above constitute the amounts by which each weekly salary rate in effect on the date of each increase shall be increased.

5. Employees who elect to become participants of the Savings and Security Program are subject to the "Program Arrangement" of compensation. As long as they remain under such "Program Arrangement" in accordance with the provisions of the Program and Prospectus, their salaries will be adjusted in accordance with the schedules established. These schedules will be established by increasing the current Savings and Security Program structures by the General Increases and Cost-of-Living Adjustments provided herein.

6. The wage increases herein provided shall be applicable to all employees in the bargaining unit represented by the Association who have not left the employment of the Company prior to date of receipt by the Company of written certification or ratification of this Agreement.

7. The provisions of this Wage Agreement shall continue in full force and effect between the parties heretc. to and including the 29th day of August 1976, and shall be coextensive with the term of any extension

or renewal of the collective bargaining agreement between the parties hereto, as provided in Article XXVI (Duration, Modification, and Termination) of that agreement.

Dated: July 27, 1973

SYRACUSE DRAFTSMEN'S ASSOCIATION

Charles Dittrich
John J. Hudun
Lillian V. Gristwood
Arnold E. Fay
Hugh Riley
Thomas C. Gangemi

GENERAL ELECTRIC COMPANY

John P. Davern
Earl A. Stebbins
Neal M. Fisher
Ronald L. Villani

Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration

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MEMORANDUM OF AGREEMENT

CONCERNING

PENSIONS, INSURANCE AND

SAVINGS AND SECURITY

This Memorandum of Agreement entered into between the General Electric Company (hereinafter referred to as the "Company") and the Syracuse Draftsmen's Association (hereinafter referred to as the "Association") shall be applicable to and binding upon the Company, the Association and employees represented by the Association (hereinafter referred to as "employees represented by the Association at the Company's plants located at Syracuse, New York. This Memorandum of Agreement shall remain in effect to and including the 29th day of August 1976, and from year to year thereafter, unless not later than 60 days prior to such date or any anniversary thereof, either the Company or the Association shall notify the other in writing of its intention to terminate this Agreement upon such date or anniversary date.

1. The parties hereto having negotiated concerning the subject of pensions, insurance, and savings and security plans, it is agreed that during the term hereof, the Company and the Association each waive the right to require that the other bargain collectively concerning the subjects of pensions, insurance, and savings and security plans, and agree that there shall be no strike in connection with such matters, upon the condition that:

   (a) The Company shall continue to make available to employees represented by the Association the General Electric Pension Plan and will make effective the amendments to such Plan as explained by the Company and given in written outline form on June 27, 1973.

   (b) The Company shall continue to make available to employees represented by the Association the General Electric Insurance Plan and will make effective the amendments to such Plan as explained by the Company and given in written outline form on June 27, 1973.

   (c) The Company shall continue to make available to employees represented by the Association the General Electric Savings and Security Plan and will make effective the amendments to such Plan as explained by the Company and given in written outline form on June 27, 1973.

Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration.

2. The amendments to the Pension Plan, Insurance Plan, and the Savings and Security Plan above referred to will be made available to employees represented by the Association at the same time such Plans are made available to Company employees generally, or as promptly thereafter as possible, subject to prior compliance with various legal requirements and administrative approvals.

3. The changes which will be made in the Pension Plan, the Insurance Plan, and the Savings and Security Plan have been described in general terms and definitive statements of the terms and conditions of the Plans will be provided to the Association as soon as available.

4. The claim of an employee concerning his rights under the terms of the Pension Plan, as amended, or under the Insurance Plan, as amended, and under the Savings and Security Plan, as amended, may be processed in accordance with the grievance procedure as set forth in the Agreement. However, no matter or controversy concerning the provisions of this Memorandum or of such Plans, or the interpretation or application thereof, shall be subject to any arbitration procedure by virtue of this or any other agreement between the parties or otherwise.

Dated: July 27, 1973

SYRACUSE DRAFTSMEN'S ASSOCIATION

Charles Dittrich
John J. Hudun
Lillian V. Gristwood
Arnold E. Fay, Jr.
Hugh Riley
Thomas C. Gangemi

GENERAL ELECTRIC COMPANY

John P. Davern
Earl A. Stebbins
Neal M. Fisher
Ronald L. Villani

Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration.

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MEMORANDUM OF AGREEMENT

INCOME EXTENSION AID PLAN

This Memorandum of Agreement entered into between the General Electric Company (hereinafter referred to as the "Company") and the Syracuse Draftsmen's Association (hereinafter referred to as the "Association") shall be applicable to and binding upon the Company, the Association and the employees represented by the Association at the Company's plants located at Syracuse, New York. This Memorandum of Agreement shall remain in effect to and including the 29th day of August 1976, and from year to year thereafter, unless, not later than 60 days prior to such date or any anniversary thereof, either the Company or the Association shall notify the other in writing of its intention to terminate this Agreement upon such date or anniversary date.

1. The parties hereto having negotiated concerning the subject of Income Extension Aid, it is agreed that during the term hereof, the Company and the Association each waive the right to require that the other bargain collectively concerning the subject of Income Extension Aid, and agree that there shall be no strike in connection with such matter, upon the condition that:

   The Company shall continue to make applicable to the employees represented by the Association the General Electric Income Extension Aid Plan and will make effective amendments to such Plan as explained by the Company and given in written outline form on June 27, 1973.

2. The amendments to the Income Extension Aid Plan above referred to will be made available to employees represented by the Association at the same time such Plan is made available to Company employees generally, or as promptly thereafter as possible, subject to prior compliance with various legal requirements and administrative approvals.

3. The claim of an employee concerning his rights under the terms of the Income Extension Aid Plan as amended may be processed in accordance with the grievance procedure as set forth in the Agreement. However, no matter or controversy concerning the provisions of this Memorandum or of such Plan, or the interpretation or application thereof, shall be subject to any arbitration procedure by virtue of this or any other agreement between the parties or otherwise.

Exhibit A — Current Bargaining Agreement annexed to Petition to Compel Arbitration.

Dated: July 27, 1973

SYRACUSE DRAFTSMEN'S ASSOCIATION

Charles Dittrich
John J. Huddun
Lillian V. Gristwood
Arnold E. Fay, Jr.
Hugh Riley
Thomas C. Gangemi

GENERAL ELECTRIC COMPANY

John P. Davern
Earl A. Stebbins
Neal M. Fisher
Ronald L. Villani

Exhibit B – Submission of Union Grievance No. 74-16
annexed to Petition to Compel Arbitration.

THE SYRACUSE DRAFTSMEN'S ASSOCIATION

SYRACUSE, N. Y.

5 November, 1974

Subject: General Grievance #74-16....
Violation of Article IX of the current G. E.-
S. D. A. Agreement

To: Mr. J. Evale,
Specialist-Union Relations
Room 31, Bldg. 1
Court Street Plant
Syracuse, New York

Dear Mr. Evale:

Per Article III of the current G. E.- S. D. A. Agreement we are submitting this grievance to your office for resolution.

Please advise me as to when we can meet with you on this.

Yours truly

Q. Liberatore
Chairman-
Negotiating Committee

Exhibit C – Company Response to Grievance
annexed to Petition to Compel Arbitration.

February 21, 1975

Mr. Querino Liberatore
Chairman Negotiating Committee
Syracuse Draftsmen's Association
Local 175, IFPTE, AFL-CIO
Building #5, Room V10
Court Street Plant
Syracuse, New York

Dear Mr. Liberatore:

It is the Company's Step III position in regard to SDA Grievance 74-16 that there was no violation of Article IX of the GE-SDA Agreement in connection with the reduction in force.

Very truly yours,

John P. Davern
Negotiator-Union Relations

JPD:hk

cc: TC Gangemi

Exhibit D – Union's Proposed Stipulation of Issue annexed to Petition to Compel Arbitration.

February 26, 1975

John P. Davern
Negotiator-Union Relations
Building 2 - Room 205
Electronics Parkway
Syracuse, New York 13088

Re: SDA Grievance No. 74-16

Dear Mr. Davern:

Please note I am in receipt of your February 21st letter indicating the Company's step three position with respect to the above referenced grievance. Please note that the SDA considers the Company position unacceptable.

As the SDA has indicated in the past, we respectfully request to proceed to arbitration on this grievance.

We submit the issue should be worded as follows:

> Did the General Electric Company violate Article IX of the G.E. - SDA Collective Bargaining Agreement with respect to the decreasing of forces procedure followed and the simultaneous distribution of layoff and displacement notices distributed on or about November 1, 1974? If so, what shall the remedy be?

Time is of the essence in this matter and your prompt attention would be appreciated. Please note that if the Syracuse Draftsmen's Association does not hear from the Company prior to March 4, 1975, it will assume that the Company refuses voluntarily to proceed to arbitration on the issue presented herein.

Yours very truly,

SYRACUSE DRAFTMEN'S ASSOCIATION

By: _____
Querino Liberatore
Chairman-Negotiating Committee

cc: T. C. Gangemi, President
Dale McAllister, Esq.

Exhibit E – Company Offer to Arbitrate annexed to Petition to Compel Arbitration.

GENERAL ELECTRIC

GENERAL ELECTRIC COMPANY, ELECTRONICS PARK, SYRACUSE, NEW YORK 13201
Phone (315), DIAL 456 PLUS EXT.*

SYRACUSE
RELATIONS AND
UTILITIES
OPERATION

March 5, 1975

Mr. Querino Liberatore
Chairman Negotiating Committee
Syracuse Draftsmen's Association
Local 175, IFPTE, AFL-CIO
Building #5, Room V10
Court Street Plant
Syracuse, New York

Dear Mr. Liberatore:

This letter is in connection with your letter of February 26, 1975, in which you request to proceed to arbitration with regard to SDA Grievance No. 74-16. Rather than arbitrating the issue as framed in your letter the Company is agreeable to arbitrating the question of whether the rights of an identified employee in the bargaining unit were violated in connection with the reduction in force November 15, 1974, by the Company's failure to permit that employee to displace into a job and by continuing to assign that job to another identified employee of shorter service. Accordingly, based on the data provided to the Company in the Association's letter of December 13, 1974, the Company is agreeable to arbitrating the following issues:

"In connection with the November 15 1974 reduction in force was J. F. Bailey qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to C. Pandelly? If so, what shall the remedy be?"

"In connection with the November 15, 1974 reduction in force was R. H. Wheeler qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to E. J. Bognaski? If so, what shall the remedy be?"

"In connection with the November 15, 1974 reduction in force was E. E. Rothbaler qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to G. M. Vrabel? If so, what shall the remedy be?"

Exhibit E — Company Offer to Arbitrate annexed to Petition to Compel Arbitration.

GENERAL ELECTRIC

Mr. Q. Liberatore

March 5, 1975

"In connection with the November 15, 1974 reduction in force was J. A. Posenauer qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to R. E. Casler? If so, what shall the remedy be?"

"In connection with the November 15, 1974 reduction in force was F. E. Bush qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to A.A. Vecchio? If so, what shall the remedy be?"

"In connection with the November 15, 1974 reduction in force was G. P. Williams qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to A.M. Pisegna? If so, what shall the remedy be?"

As you know, Article IV on arbitration provides for arbitration with the prior mutual agreement of the Association and the Company as executed by their authorized representatives. Your agreement to arbitration of the above issues is respectfully requested.

Very truly yours,

John P. Davern

John P. Davern
Negotiator-Union Relations

JPD:hk

NOTICE OF CROSS MOTION TO DISMISS, dated 7-8-75.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE ARBITRATION

between

THOMAS C. GANGEMI, as President of the SYRACUSE DRAFTMEN'S ASSOCIATION,
7210 Willow Road
North Syracuse, New York 13212

Petitioner,

and

GENERAL ELECTRIC COMPANY
Electronics Parkway
Liverpool, New York 13088

Respondent.

NOTICE OF CROSS MOTION

CIVIL ACTION NO. 75-CV-276

TO: THOMAS C. GANGEMI, as President of the
SYRACUSE DRAFTSMEN'S ASSOCIATION
7210 Willow Road
North Syracuse, New York 13212

PLEASE TAKE NOTICE, that on the annexed Answer to Petition, and the annexed Affidavit of John P. Davern, the undersigned will cross-move the above Court at such time and place as the Court hears Petitioner's motion for an order directing arbitration, to dismiss this action upon the grounds that there exists no issue which is referrable to arbitration nor a failure

on the part of Respondent to comply with the terms of the collective bargaining agreement.

Dated: July 8, 1975

BOND, SCHOENECK & KING

By _____
A Partner
Attorneys of Respondent
Office and P.O. Address
One Lincoln Center
Syracuse, New York 13202
Tel.: (315) 422-0121

ANSWER AND CROSS MOTION TO DISMISS,
dated 7-8-75.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE ARBITRATION

between

THOMAS C. GANGEMI, as President of the
SYRACUSE DRAFTMEN'S ASSOCIATION,
7210 Willow Road
North Syracuse, New York 13212

Petitioner,

and

GENERAL ELECTRIC COMPANY
Electronics Parkway
Liverpool, New York 13088

Respondent.

ANSWER TO
PETITION

CIVIL ACTION
NO. 75-CV-276

Respondent, General Electric Company, by its attorneys, Bond, Schoeneck & King, answers the Petition in this proceeding as follows:

1. Admits the allegations in paragraphs 1, 2, 3, 4, 6 and 8 of the petition.

2. Admits, with reference to paragraph 5 of the petition, that the parties' collective bargaining agreement contains a grievance clause (Article III) which culminates in non-mandatory arbitration (Article IV) with respect to the issues involved in this proceeding.

3. Admits the allegations contained in paragraph 7 of the petition, but asserts that the decision referred to is not dispositive of the issues in this proceeding.

4. Admits with reference to the allegations in paragraph 9 of the petition that Respondent sent the letter annexed to the petition and marked Exhibit E, but denies the remaining allegations of that paragraph.

5. Admits with reference to paragraph 10 of the petition, that neither Respondent nor Petitioner have proceeded to arbitration, and asserts that neither has any such obligation under the applicable collective bargaining agreement in the absence of a mutual agreement of the parties to do so.

FOR AN AFFIRMATIVE DEFENSE, RESPONDENT ALLEGES:

6. The arbitration clause in the collective bargaining agreement provides for mandatory arbitration of grievances relating to disciplinary action, but does not provide for the arbitration of grievances relating to other issues in the absence of a mutual agreement by the parties to arbitrate. This has always been the construction given that clause by the parties, and is consistent with their intentions as revealed in the negotiating history of the agreement. Thus, with respect to the grievance involved in the present proceeding, there exists no issue which is referable to arbitration nor a failure on the part of Respondent to comply with the terms of the collective bargaining agreement.

WHEREFORE, Respondent respectfully requests that this action be dismissed, and that Respondent be granted such other

and further relief as to the court may seem just and proper, together with the costs of this motion.

Dated: July 8, 1975

BOND, SCHOENECK & KING

By _____
A Partner
Attorneys for Respondent
Office and P.O. Address
One Lincoln Center
Syracuse, New York 13202
Tel. (315) 422-0121

ANSWER AND CROSS MOTION TO DISMISS,
dated 7-8-75.

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss:

FRANCIS D.PRICE, BEING DULY SWORN DEPOSES AND SAYS:

That he resides in the City of Syracuse, New York; that he is an attorney at law and associated in the firm of Bond, Schoeneck & King, attorneys for the respondent, General Electric Company; that he has read the foregoing answer and knows the contents thereof; and that the same is true to the best of the deponent's information and belief.

Deponent further states that the source of his information and belief is a review of correspondence and pleadings concerning this action and conversations with company officials.

Deponent further states that the reason this verification is made by deponent and not by the respondent is that the respondent does not have any officers authorized to verify pleadings within the limits of Onondaga County where deponent and the firm with which he is associated have their offices.

/s/ Francis D. Price
FRANCIS D. PRICE

Sworn to before me this
day of July 8 1975.

/s/ Hilda L. Forth
Notary Public

HILDA L. FORTH
Notary Public in the State of New York
Qualified in Onon. Co. No. 34-6362640
My Commission Expires March 30, 1976

AFFIDAVIT OF JOHN P. DAVERN IN SUPPORT OF CROSS MOTION TO DISMISS, dated 7-8-75.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE ARBITRATION

between

THOMAS C. GANGEMI, as President of the
SYRACUSE DRAFTMEN'S ASSOCIATION,
7210 Willow Road
North Syracuse, New York 13212

Petitioner,

and

GENERAL ELECTRIC COMPANY
Electronics Parkway
Liverpool, New York 13088

Respondent.

AFFIDAVIT

CIVIL ACTION
NO. 75-CV-276

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:
CITY OF SYRACUSE)

JOHN P. DAVERN, being duly sworn, deposes and states that:

1. I am the Negotiator-Union Relations, for the Syracuse operations of Respondent, General Electric Company, in the above-captioned action and have held that position for over two years. I am fully familiar with all of the circumstances and facts which have transpired to date out of which the above-captioned action arises.

2. That the General Electric Company, at all times hereinafter mentioned was and still is a corporation transacting

business in New York State with an office located at Electronics Parkway, Liverpool, New York.

That the Syracuse Draftsmen's Association, at all times hereinafter mentioned was and still is an unincorporated labor organization consisting of more than seven members, organized and existing under and by virtue of the laws of the State of New York and of the United States.

That the General Electric Company and the Syracuse Draftsmen's Association, the duly designated collective bargaining representative for certain draftsmen employed at General Electric facilities in Syracuse, New York, have entered into a collective bargaining agreement with regard to the terms and conditions of employment of such draftsmen.

5. That Article IX of said collective bargaining agreement establishes a procedure for the decreasing of forces of bargaining unit employees.

6. That general Paragraph 4(d) under Article IX provides as follows:

> "In selecting employees to be laid off or downgraded, subject to the conditions of Section 1 of this Article, total length of continuous service shall be the major factor determining the employees to be laid off or downgraded from among those having the ability to perform the available work.
>
> Subject to the conditions of Section 1 of this Article, an employee may be permitted to displace a shorter service employee, provided he is qualified to perform the available work. When doubt

> exists on the part of management as to whether or not an employee is qualified to perform the available work and to displace a shorter service employee, the employee shall be interviewed before a final determination of his qualifications is made."

7. That on or about November 1, 1974 in accordance with the terms of Article IX of said collective bargaining agreement, the General Electric Company issued 32 lack of work notices and approximately 33 displacement notices to bargaining unit employees in the Heavy Military Electronics Department providing an effective date for such lack of work of November 15, 1974.

8. That in connection with such lack of work in seven instances longer service employees were not qualified to perform the available work and accordingly, shorter serviced employees were retained to perform the available work consistent with the terms of paragraph 4(d) of Article IX.

9. That prior to November 15, any draftsmen receiving a lack of work notice or a displacement notice, on request therefor, was given an interview before a final determination of his qualifications to perform the available work to be performed by retained shorter serviced employees in accordance with the terms of paragraph 4(d).

10. That any such employee selected for layoff was advised personally of the reasons therefor pursuant to paragraph 4(e) of Article IX.

11. That the manner of applying the displacement procedure in connection with the lack of work effective November 15,

1974 is consistent with the past practice of General Electric Company in applying such displacement procedures under the terms of Article IX of the collective bargaining agreement.

12. That of the 32 draftsmen recieving lack of work notices and approximately 33 receiving displacement notices, substantial numbers of such employees were the shortest serviced draftsmen within the bargaining unit and are not affected in any way by the Company's determination that seven shorter serviced employees be retained due to the fact that longer serviced employees are not qualified to perform the available work.

13. That Article III of the collective bargaining agreement provides for a negotiation procedure for the purpose of orderly negotiations between the parties concerning all claims, disputes or other matters subject to collective bargaining between the parties during the term of the agreement, whether or not such claims, disputes or other matters involve the interpretation or application of the agreement.

14. That such negotiation procedure sets forth a three-step procedure and that General Electric Company had agreed to expedite any grievance filed with regard to any issue relating to the November 15 layoff.

15. That a grievance was filed, dated November 5, 1974, and received by General Electric Company on November 7, 1974, numbered grievance 74-16, asserting that the lack of work

AFFIDAVIT OF JOHN P. DAVERN IN SUPPORT OF CROSS MOTION TO DISMISS, dated 7-8-75.

occuring November 1, 1974, was not in accordange with the terms of Article IX of the collective bargaining agreement. A copy of grievance 74-16 is attached hereto and marked Exhibit A.

16. That, prior to the time that grievance 74-16 had proceeded through the three successive steps of the grievance procedure, the Syracuse Draftsmen's Association commenced an action on November 14, 1974, in the Supreme Court, State of New York, County of Onondaga, by obtaining an order to show cause on a motion for a preliminary injunction and by securing a temporary restraining order enjoining Defendant from "laying off and/or changing the job assignment and/or displacing" draftsmen.

17. That the General Electric Company moved for and was granted an order vacating the temporary restraining order on November 15, 1974.

18. That a petition for removal was filed with the Clerk for the Federal District Court of the Northern District of New York on November 25, 1974.

19. That on February 4, 1975, the Federal District Court denied the injunctive relief requested and granted the General Electric Company's motion to dismiss the complaint for failure to exhaust contractual remedies.

20. That on February 21, 1975, the Company's Step III position in regard to the Association's grievance 74-16 was forwarded to the SDA.

AFFIDAVIT OF JOHN P. DAVERN IN SUPPORT OF CROSS MOTION TO DISMISS, dated 7-8-75.

21. That on February 26, 1975, the SDA submitted a request to the Company for arbitration of grievance 74-16 based upon their proposed stipulation of the issue to be arbitrated. A copy of such request is attached hereto and marked Exhibit B. On March 5, 1975, the Company proposed arbitration of the issues set forth in their letter of March 5, 1975, a copy of which is attached hereto and marked Exhibit C.

22. That on March 17, 1975, the Chairman of the SDA's Negotiating Committee, Q. Liberatore, advised the Company by letter that he was in receipt of the Company's letter of March 5 and that the matter was being referred to the Association's attorney, Mr. Charles Blitman. A copy of the Association's March 17, 1975, letter is attached hereto marked Exhibit D.

23. That on April 1, 1975, Mr. Liberatore sent a letter to the Company stating that the matter covered by grievance 74-16 was exhausted through Article XIII of the collective bargaining agreement. A copy of Mr. Liberatore's letter of April 1, 1974, is attached hereto marked Exhibit E.

24. That there was no further correspondence or conversations with regard to grievance 74-16 between the Company and the Association until the Company received the petition requesting the Company be directed to arbitrate grievance 74-16 and at no time did the Association respond to the Company's request for arbitration of the issue as set forth in its letter of March 5, 1975.

AFFIDAVIT OF JOHN P. DAVERN IN SUPPORT OF CROSS MOTION TO DISMISS, dated 7-8-75.

25. That the current arbitration provision, Article IV, of the collective bargaining agreement between the parties provides for mandatory arbitration of disciplinary matters and arbitration of all other matters involving the interpretation and application of the agreement only upon the mutual agreement of the parties.

26. That both the Company and the Association have consistently in the past taken the position that Article IV only requires arbitration of matters other than discipline upon the mutual agreement of the parties.

27. That, in the action filed by the Syracuse Draftsmen's Association seeking to enjoin the Company from proceeding with the layoff, Thomas C. Gangemi, in his sworn statement dated November 13, 1974, stated "that the Plaintiff (SDA) has no adequate remedy at law, or otherwise, for the harm and damage done or threatened to be done by the defendant (General Electric Company) because there is no binding arbitration provision contained in the parties' Collective Bargaining Agreement with respect to this matter."

28. That Allegation 11 of the complaint filed in that action on November 15, 1974 atates: "That the plaintiff has no adequate remedy at law, or otherwise, for the harm and damage done or threatened to be done by the defendant because there is no binding arbitration provision contained in the parties' Collective Bargaining Agreement with respect to this matter.

AFFIDAVIT OF JOHN P. DAVERN IN SUPPORT OF CROSS MOTION TO DISMISS, dated 7-8-75.

29. That Thomas C. Gangemi, President of the Syracuse Draftsmen's Association, in his affidavit dated December 31, 1974, in Paragraph 15 states: "The Deponent respectfully points out to the Court that pursuant to Article IV of the parties' collective bargaining agreement any grievance excluding a disciplinary penalty may not proceed to arbitration unless both parties mutually agree in writing."

30. That I have examined the records of the Company with regard to the negotiation history involving Article IV, Arbitration. That the first arbitration clause negotiated into the collective bargaining agreement between the parties was incorporated into the 1960 agreement. A copy of the 1960 arbitration clause is attached, marked Exhibit F.

31. That there is attached, marked Exhibit G, the arbitration clause proposed by the SDA in connection with negotiation of the 196- contract proposing mandatory arbitration of all matters involving interpretation or application of the contract. There is attached, marked Exhibit H, the arbitration clause ultimately negotiated between the parties providing for arbitration of any matter only upon the mutual agreement of the parties.

32. That the 1966-69 negotiations resulted in the contract language found in the present agreement. A copy of the language negotiated in 1966 is attached hereto and marked Exhibit I

providing for mandatory arbitration of disciplinary matters and arbitration only by mutual agreement of the parties of other matters involving the application or interpretation of the contract.

33. That in the 1969 negotiations the Association proposed modification of Article IV providing for mandatory arbitration of any grievance involving the interpretation or application of the agreement. A copy of the Association's 1969 arbitration proposal is enclosed and marked Exhibit J. Negotiations resulted in no change in the arbitration clause.

34. That in the 1972 negotiations the Association proposed modification of the arbitration article to "allow for arbitration of grievances for seniority, decreasing forces, increasing forces, continuity of service, subcontracting and loss of pay the same as for disciplinary action." Copies of the SDA's proposed modifications, dated September 6 and October 23, 1972, are attached, marked Exhibits K and L. Negotiations resulted in no change in Article IV, Arbitration.

35. That in May of 1973 I was head of the Company's negotiating team for the current agreement. The Association, on May 25, 1973, proposed the same changes with regard to arbitration as in its proposal dated October 23, 1972, which is attached, marked Exhibit L, in which it proposed mandatory arbitration of any

grievance involving the decreasing of forces. Following negotiations on this and other subjects, the parties agreed that there would be no change in the arbitration clause as it had appeared in the contract since 1966.

36. That as a corollary to the arbitration clause providing for mandatory arbitration of disciplinary matters only, the parties negotiated Article XXI of the collective bargaining agreement, Strikes and Lockouts, which provides as follows in the first paragraph of Section 1:

> "There shall be no strike, sitdown, slowdown, employee demonstration or any other organized or concerted interference with work of any kind in connection with any matter subject to the grievance procedure, and no such interference with work shall be directly or indirectly authorized or sanctioned by the Association or its respective officers or representatives, unless and until all of the respective provisions of the successive steps of the grievance procedure set forth in Article III shall have been complied with by the Association or if the matter is submitted to arbitration as provided in Article IV."

37. Article XXI affords the Union the opportunity to strike if a matter has gone through the successive steps of the grievance procedure and is not submitted to arbitration. As a recognition of the right to strike as a remedy under the contract in lieu of arbitration, in 1971 the Union called a work stoppage with respect to any unresolved grievance without first seeking arbitration of that grievance. There is attached, marked Exhibit M, a copy of the Union's strike notice dated August 24, 1971. Also attached, and marked Exhibit N, is a current notice

to Union members by the Association of a strike vote over exhausted grievances.

38. That in all of the instances where the Union has sought arbitration of grievances prior to the present circumstances involving grievance 74-16, the Union has sought the mutual agreement of the Company as a prerequisite to proceeding to arbitration. Such requests for arbitration have been made both under the present 1973-76 collective bargaining agreement as well as under earlier agreements.

John P. Davern

John P. Davern

Sworn to before me this
7th day of July, 1975.

Hilda L Forth

Notary Public

HILDA L. FORTH
Notary Public in the State of New York
Qualified in Onon. Co. No. 34-6362640
My Commission Expires March 30, 1976

Exhibit A – Submission of Union Grievance No. 74-16 annexed to Davern Affidavit.

5 November, 1974

Subject: General Grievance #74-16....
Violation of Article IX of the current G. E.-
S. D. A. Agreement

To: Mr. J. Evale,
Specialist-Union Relations
Room 31, Bldg. 1
Court Street Plant
Syracuse, New York

Dear Mr. Evale:

Per Article III of the current G. E.- S. D. A. Agreement we are submitting this grievance to your office for resolution.

Please advise me as to when we can meet with you on this.

Yours truly

Q. Liberatore
Chairman-
Negotiating Committee

Exhibit B – Union's Proposed Stipulation of Issue annexed to Davern Affidavit.

SYRACUSE DRAFTSMEN'S ASSOCIATION

SYRACUSE, NEW YORK

February 26, 1975

FEB 2 1975

John P. Davern
Negotiator-Union Relations
Building 2 - Room 205
Electronics Parkway
Syracuse, New York 13088

Re: SDA Grievance No. 74-16

Dear Mr. Davern:

Please note I am in receipt of your February 21st letter indicating the Company's step three position with respect to the above referenced grievance. Please note that the SDA considers the Company position unacceptable.

As the SDA has indicated in the past, we respectfully request to proceed to arbitration on this grievance.

We submit the issue should be worded as follows:

> Did the General Electric Company violate Article IX of the G.E. - SDA Collective Bargaining Agreement with respect to the decreasing of forces procedure followed and the simultaneous distribution of layoff and displacement notices distributed on or about November 1, 1974? If so, what shall the remedy be?

Time is of the essence in this matter and your prompt attention would be appreciated. Please note that if the Syracuse Draftsmen's Association does not hear from the Company prior to March 4, 1975, it will assume that the Company refuses voluntarily to proceed to arbitration on the issue presented herein.

Yours very truly,

SYRACUSE DRAFTMEN'S ASSOCIATION

By: _____
Querino Liberatore
Chairman-Negotiating Committee

cc: T. C. Gangemi, President
Dale McAllister, Esq.

Exhibit C – Company Offer to Arbitrate annexed to Davern Affidavit.

GENERAL ELECTRIC

GENERAL ELECTRIC COMPANY, ELECTRONICS PARK, SYRACUSE, NEW YORK 13201
Phone (315), DIAL 456 PLUS EXT.*

SYRACUSE
RELATIONS AND
UTILITIES
OPERATION

March 5, 1975

Mr. Querino Liberatore
Chairman Negotiating Committee
Syracuse Draftsmen's Association
Local 175, IFPTE, AFL-CIO
Building #5, Room V10
Court Street Plant
Syracuse, New York

Dear Mr. Liberatore:

This letter is in connection with your letter of February 26, 1975, in which you request to proceed to arbitration with regard to SDA Grievance No. 74-16. Rather than arbitrating the issue as framed in your letter the Company is agreeable to arbitrating the question of whether the rights of an identified employee in the bargaining unit were violated in connection with the reduction in force November 15, 1974, by the Company's failure to permit that employee to displace into a job and by continuing to assign that job to another identified employee of shorter service. Accordingly, based on the data provided to the Company in the Association's letter of December 13, 1974, the Company is agreeable to arbitrating the following issues:

"In connection with the November 15, 1974 reduction in force was J. F. Bailey qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to C. Pandelly? If so, what shall the remedy be?"

"In connection with the November 15, 1974 reduction in force was R. H. Wheeler qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to E. J. Bognaski? If so, what shall the remedy be?"

"In connection with the November 15, 1974 reduction in force was E. E. Rothbaler qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to G. M. Vrabel? If so, what shall the remedy be?"

Exhibit C — Company Offer to Arbitrate annexed to Davern Affidavit.

GENERAL ELECTRIC

Mr. Q. Liberatore

March 5, 1975

"In connection with the November 15, 1974 reduction in force was J. A. Posenauer qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to R. E. Casler? If so, what shall the remedy be?"

"In connection with the November 15, 1974 reduction in force was F. E. Bush qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to A.A. Vecchio? If so, what shall the remedy be?"

"In connection with the November 15, 1974 reduction in force was G. P. Williams qualified within the terms of Article IX, Section 4 (d) of the 1973-1976 GE-SDA Agreement to perform the job assigned to A.M. Pisegna? If so, what shall the remedy be?"

As you know, Article IV on arbitration provides for arbitration with the prior mutual agreement of the Association and the Company as executed by their authorized representatives. Your agreement to arbitration of the above issues is respectfully requested.

Very truly yours,

John P. Davern

John P. Davern
Negotiator-Union Relations

JPD:hk

Exhibit D – Union Letter, dated 3-17-75 annexed to Davern Affidavit.

THE SYRACUSE DRAFTSMEN'S ASSOCIATION

LOCAL 175 IFPTE AFL-CIO, CLC
SYRACUSE, N. Y.

RECEIVED
MAR 19 1975

17 March, 1975

SUBJECT: Grievance No. 74-16

To: Mr. John P. Davern
Negotiator-Union Relations
S. R. and U. Operations
Room 205, Bldg 2
Electronics Park
Syracuse, New York

Dear Mr. Davern:

I have received your letter of 5 March, 1975 outlining the issues the Company is willing to arbitrate in the above listed grievance.

I have turned this matter over to our attorney, Mr. Charles Blitman, for further action.

You will be hearing from either Mr. Blitman or myself on this matter.

Yours truly

A. Liberatore

A. Liberatore
Chairman-Negotiating Committee

Exhibit E – Union Letter, dated 4-1-75
annexed to Davern Affidavit.

THE SYRACUSE DRAFTSMEN'S ASSOCIATION

LOCAL 175 IFPTE CIO-AFL, CLC
SYRACUSE, N. Y.

1 April, 1975

Subject; Grievance No. 74-16

To: Mr. John P. Davern
Negotiator-Union Relations
S. R. & U. Operations
Bldg 2, Room 205
Electronics Park
Syracuse, New York

Dear Mr. Davern:

Please note that all the provisions for the successive steps of the grievance procedure found in Article III of the current G.E.-S.D.A. collective bargaining agreement have been satisfied in respect to the above grievance.

The S.D.A. respectfully submits that this matter is now exhausted through Article III.

Yours truly

Q. Liberatore
Chairman-
Negotiating Committee

Exhibit F -- 1960 Arbitration Clause annexed to Davern Affidavit.

ARTICLE III

Negotiating Procedure

The Association will submit to the Company a list of representatives. Upon receipt of such list, the Company will furnish the Association with a corresponding list of supervisors who are to act as Company representatives.

Grievances of employees who are on temporary assignments will be handled by the representative and supervisor in the department in which the employee is working.

Any individual may take up a grievance with his immediate supervisor, either alone or with his representative, or a representative may take up a grievance without an individual being present only upon the request of the individual. Any group of individuals may present a group grievance with their immediate supervisor through their representative. Most grievances will be settled by the supervisor within three days. If additional time is needed, the supervisor will take this up with the representative and a time limit for such settlement will be set by mutual agreement.

If a settlement is not reached, or if a time limit for such settlement is not agreed upon, the representative may refer the grievance to the Negotiating Committee of the Association, who may contact a representative of local management. A meeting will be held with such representative within seven days and an answer given within seven days after the meeting has been held.

If a settlement is not reached at this point, the Association may refer the grievance to an executive officer of the Company, or his designated representative, who shall be designated by the Company to receive such grievance. A meeting will be arranged within two weeks from the date of the notification by the Association, unless, for good reason, a different time limit is set by mutual agreement.

Grievances of a general nature may be filed by the President of the Association or the Chairman of the Negotiating Committee in the name of the Association. Any grievance of this nature will be filed at the second step of the grievance procedure.

If the Association would like a written answer to any grievance, the grievance will be submitted in writing to the Company and a written answer will be requested thereon. The Company will give a written answer on such grievances.

ARTICLE IV

Arbitration

1. Any grievance which remains unsettled after having been fully processed pursuant to the provisions of Article III, and which involves either,

   (a) the interpretation or application of a provision of this Agreement, or

   (b) a disciplinary penalty (including discharge) imposed on or after the effective date of this Agreement, which is alleged to have been imposed without just cause,

Exhibit F — 1960 Arbitration Clause annexed to Davern Affidavit.

shall be submitted to arbitration upon written request of either the Association or the Company, provided such request is made within 30 days after the final decision of the Company has been given to the Association pursuant to Article III For the purpose of proceedings within the scope of (b) above, the standard to be applied by an arbitrator to cases involving disciplinary penalties (including discharge) is that such penalties shall be imposed only for just cause.

2. (a) Within 10 days following a written request for arbitration of a grievance, the Company or the Association may request the American Arbitration Association to submit a Panel of names from which an arbitrator may be chosen. In the selection of an arbitrator and the conduct of any arbitration, the Voluntary Labor Arbitration Rules of the American Arbitration Association shall control, except that:

(i) nothwithstanding any provision of such Rules, the Association shall have no authority to appoint an arbitrator in any matter who has not been approved by both parties until and unless the parties have had submitted to them at least three Panels of arbitrators and have been unable to select a mutually satisfactory arbitrator therefrom; and

(ii) either party may, if it desires, be represented by Counsel.

(b) It is further expressly understood and agreed that the American Arbitration Association shall have no authority to process a request for arbitration or appoint an arbitrator if either party shall advise the Association that such request arises under Section 1 (a) of this Article, but that the grievance desired to be arbitrated does not, in its opinion, raise an arbitrable issue. In such event, the Association shall have authority to process the request for arbitration and appoint an arbitrator in accordance with its rules only after a final judgment of a Court has determined that the grievance upon which arbitration has been requested raises arbitrable issues and has directed arbitration of such issues. The foregoing part of this subsection (b) shall not be applicable if by its terms the request for arbitration requests only relief from a disciplinary penalty or discharge alleged to have been imposed without just cause.

3. (a) The award of an arbitrator so selected upon any grievance subject to arbitration as herein provided shall be final and binding upon all parties to this Agreement, provided that no arbitrator shall have any authority to add to, detract from, or in any way alter the provisions of this Agreement.

(b) It is specifically agreed that no arbitrator shall have the authority to establish or modify any wage, salary or piece rate, or job classification, or authority to decide the appropriate classification of any employee. Subject to the foregoing limitations on the authority of an arbitrator, nothing in this subsection (b) shall prevent arbitration of a grievance involving a violation of this Agreement.

(c) In addition, notwithstanding any contrary provision of this Article,

(i) no provision of this Agreement or other agreements between the parties shall be subject to arbitration pertaining in any way to the establishment, administration, interpretation or application of Insurance or Pension Plans in which employees covered by this Agreement are eligible to participate; and

(ii) no arbitrator shall have the authority to review, revoke, modify or enter any award with respect to, any discipline or discharge imposed on employees having less than six months of continuous service with the Company provided that if by Local Understanding a period of less than six months has been agreed upon as the probationary period for new employees, and such Local Understanding is applicable to the particular employee involved, such agreed upon shorter period of time shall be substituted for "six months" in the foregoing; and provided further that with respect to disciplinary penalties or discharges imposed in violation of Article V.

4. This Article shall be enforced and applied in the same manner as if it were included in a commercial contract.

ARTICLE V

Discrimination and Coercion

The Company will not discriminate against any individual because of activities or membership in the Association. The Association agrees it will not coerce or intimidate employees.

ARTICLE VI

Collection of Dues

The Company agrees to make a monthly payroll deduction of Association dues from the pay of those Association members who voluntarily sign, on a form mutually agreed upon, individual authorizations for such deductions. Any such authorization shall be revocable by the individual employee by giving the Company notice in writing at any time between September 20 and October 1 of any year during the term of this Agreement or of any year during the term of each succeeding applicable collective bargaining agreement between the parties hereto, or 10 days prior to the termination date of each such succeeding agreement.

If for any reason the Company fails to collect the dues of members each month, the Company, over a reasonable period of time, will deduct an additional amount each week from the employee's pay check until such time that all back dues are collected.

ARTICLE VII

Classification

With the exception of Apprentice Draftsmen:

1. All employees in the Association unit will be classified in accordance with the latest list of job classifications.

2. All paid rates will be on listed step rates.

Exhibit G – Union's Proposed 1963 Arbitration Clause annexed to Davern Affidavit.

ARTICLE IV

Arbitration

1. Any grievance which remains unsettled after having been fully processed pursuant to the provisions of Article III, shall be submitted to arbitration upon written request of either the Association or the Company, provided such request is made 60 days after the final decision of the Company has been given to the Association pursuant to Article III.

The standard to be applied by an arbitrator to cases involving disciplinary penalties (including discharge) is that such penalties shall be imposed, by the Company, only for just cause. The requirement of "just cause" shall not apply to employees with less than 30 days service.

2. Within twenty (20) days following a written request for arbitration of a grievance, the Company or the Association may request the New York State Board of Mediation to appoint an arbitrator to hear and determine said dispute.

3. The award of an arbitrator so selected upon any grievance subject to arbitration as herein provided shall be final and binding upon the Company and the Association.

In addition, notwithstanding any contrary provision of this agreement or other agreements between the parties shall be subject to arbitration pertaining in any way to the establishment, administration, interpretation or application of Insurance or Pension Plans in which employees covered by this agreement are elegible to participate.

Exhib[illegible]263 Arbitration Clause
annexed to Davern Affidavit.

Article III (cont'd.)

Section 2 Payment for time on Association Activities

Payment for time spent during working hours by any of the Association's officers and representatives in its relations with the Company shall be limited to the following:

(a) The Company will pay for a maximum of one hour spent each week by representatives handling recognized grievances at Step 1.

(b) During each fiscal month the Company will pay for a maximum of two hours multiplied by the number of weeks in the GE fiscal month spent by members of the Association's grievance committee for discussing grievances with the Company at Step 2. This payment will be limited to a maximum of five individuals during any given fiscal month.

In order to adhere to this Section of the Agreement the procedure to follow is described below.

(a) The representatives will report to their Supervisor before engaging in any Association activity. The Supervisor will issue a voucher to the representative indicating the classification of the representative's business by placing a check mark in the appropriate space on the voucher.

(b) The Company will send to the Association a list of all representatives turning in lost time.

ARTICLE IV

Arbitration

Any individual grievance involving a disciplinary penalty imposed during the term of this Agreement or involving the interpretation and application of

Exhibit H - 1963 Arbitration Clause annexed to Davern Affidavit.

Article IV (cont'd.)

a provision of this Agreement may be submitted to arbitration only after it has been properly processed in accordance with the provisions of Article III and with prior written mutual agreement of the Association and the Company as executed by their authorized representatives.

ARTICLE V

Discrimination and Coercion

The Company will not discriminate against any individual because of activities or membership in the Association. The Association agrees it will not coerce or intimidate employees.

ARTICLE VI

Collection of Dues

The Company agrees to make a monthly payroll deduction of Association dues from the pay of those Association members who voluntarily sign, on a form mutually agreed upon, individual authorizations for such deductions. Any such authorization shall be revocable by the individual employee by giving the Company notice in writing at any time between September 20 and October 1 of any year during the term of this Agreement or of any year during the term of each succeeding applicable collective bargaining agreement between the parties hereto, or 10 days prior to the termination date of each such succeeding agreement.

Exhibit I – 1966 Arbitration Clause annexed to Davern Affidavit.

ARTICLE IV

D 3-66 – D. ... 65

ARBITRATION

Any individual grievance involving the interpretation and application of a ... provision of this Agreement may be submitted to arbitration only after it has been properly processed in accordance with the provisions of Article III and with prior written mutual agreement of the Association and the Company as executed by their authorized representatives.

... individual grievance involving a disciplinary penalty (including discharge) ...eement upon an employee having more than ...y be submitted to arbitration by either party ...g been properly and fully processed in accordance ... In any such case, the standard to be applied ...penalty shall be imposed only for just cause. In ...he party seeking arbitration shall deliver a written ...er party within 30 days after the final decision of the ...Association at Step 3 of the grievance procedure set ...e request shall be sent to the American Arbitration ...se will be processed in accordance with the Voluntary Labor Arbitration Rules of the American Arbitration Association as amended and then in effect.

The award of an arbitrator upon any grievance subject to arbitration as herein provided shall be final and binding upon all parties to this Agreement, provided that no arbitrator shall have any authority or jurisdiction to add to, detract from, or in any way alter the provisions of this Agreement.

ARTICLE V

DISCRIMINATION AND COERCION

Neither the Company nor the Association will coerce, intimidate, or discriminate against any individual.

Neither the Company nor the Association will discriminate against any employee on account of race, color, sex, creed, marital status or national origin.

ARTICLE VI

COLLECTION OF DUES

The Company agrees to make a monthly payroll deduction of Association dues from the pay of those Association members who voluntarily sign on a form mutually agreed upon, individual authorizations for such deductions. Authorized deductions shall be made from his pay each month. An itemized checkoff list of the names of employees from whom dues have been withheld, together with the amount thereof, will be forwarded to the Treasurer of the Association no later than the fourth fiscal week of each month in which the deductions were made. The Association will furnish the Company with the name and address of the Treasurer.

Exhibit J – Union's Proposed 1969 Arbitration Clause annexed to Davern Affidavit.

SYRACUSE DRAFTSMEN'S ASSOCIATION

1969 Contract Proposals

ARTICLE I

Recognition

Modify Paragraph 2 of Article I to read as follows:

"All draftsmen of the Employer's Syracuse Electronics Works, Syracuse, N. Y. engaged in the production of working and manufacturing drawings in the capacity of drafting designers, drafting detailers, drafting tracers, drawing checkers, graphic display facility employees, test equipment draftsmen and [illegible]-typists, but excluding all clerical employees, all supervisory employees with authority to hire, promote, discipline or discharge other employees or effectively change the status of other employees or effectively recommend such action and all other employees."

Add an additional paragraph to read as follows:

"Bargaining unit work will only be done by bargaining unit employees. Any bargaining unit work that is done by non-bargaining employees may only be done so after the express written agreement of the Union in advance of such work assignments."

ARTICLE III

Negotiating Procedure

In Step 2: Change seven (7) days to five (5) working days.

In Step 3: Change two (2) weeks to ten (10) working days. Add sentence for written answer within ten (10) working days.

Add section for Penalty ($10,000 per day) if times specified are not met or changed by mutual agreement.

Delete Section 2 – "Payment for Time".

Exhibit J — Union's Proposed 1969 Arbitration Clause annexed to Davern Affidavit.

ARTICLE IV

Arbitration

"Any grievance which has been processed through the Negotiating Procedure provided for in Article III of the Contract involving the interpretation or application of this Agreement may be submitted to arbitration by either party. Either party may apply to the New York State Board of Mediation for the appointment of an arbitrator to hear and decide such disputes.

"The award of the arbitrator shall be final and binding upon all parties to the Agreement providing that no arbitrator shall have any authority to detract from, or alter the provisions of this Agreement. The expenses of arbitration shall be borne equally between the Company and the Union."

ARTICLE V

Discrimination and Coercion

Add the following paragraph:

"The Company agrees that it will not discriminate or coerce any employee by reason of his membership or activity on behalf of the Syracuse Draftsmen's Association."

ARTICLE VII

Classification

Section 1, Sentence 3:

"The performance of each employee will be appraised in his presence at least annually. Upon request he may obtain a copy."

Delete sentence 7. Add sentence 7:

"Employee may be allowed to examine his personnel folder upon request."

Section 2. Change Sentence 5 to:

"A Design 3 at the minus one step will be paid the job rate effective on the Monday following completion of one (1) year in the classification."

Add Sentence 6:

"A Design 2 at the minus one step will be paid the job rate effective on the Monday following completion of one (1) year in the classification."

Add Sentence 7:

"A Design 1 at the minus one step will be paid the job rate effective on the Monday following completion of one and one-half (1-1/2) years in the classification."

Exhibit K — Union's Proposed 1972 Arbitration Clause annexed to Davern Affidavit.

THE SYRACUSE DRAFTSMEN'S ASSOCIATION

SYRACUSE, N. Y.

September 6, 1972

SDA PROPOSED MODIFICATIONS TO SDA-GE AGREEMENT

Article I Recognition

1. Definition of "working and manufacturing drawings".
2. Limitation of drafting work by non-bargaining unit employees.
3. Add drafting apprentices and GDF job titles.
4. Change "All draftsmen of the Employer's..." to "All Employees of the Employer's...".
5. Add test equipment draftsmen and drafting typest.
6. Add computer aided drafting and machine aided drafting.

Article II Responsibility of the Parties

1. Add statement that management will not use their discretion unreasonably.

Article III Negotiating Procedure

1. Grievances to be filed directly with the responsible manager.
2. Add time requirement for answers at Step 3.

Article IV Arbitration

1. Allow arbitration of grievances for seniority, decreasing forces, increasing forces, continuity of service, subcontracting and loss of pay the same as for disciplinary action.
2. Permit other means of arbitration.

Article VI Collection of Dues

1. Service fee to be collected from bargaining unit employees who are not Association members.
2. Penalty for late transmittal of dues/fees.

Article VII Classification

1. Employee to receive a copy of his annual appraisal.
2. Combine Detail 1,2 and 3 into one classification.
3. Automatic progression through Detail (7)/Detail 1-1.
4. Combine Design I,II and III into one classification.
5. Automatic progression through Design (7)/Design1-1.
6. Upon graduation apprentices to be classified Detail (7)/Detail 1-1.
7. Job descriptions for Detailer, Designer, Checker and Engineering Designer.

Exhibit L — Union's Proposed 1972 Arbitration Clause annexed to Davern Affidavit.

THE SYRACUSE DRAFTSMEN'S ASSOCIATION

SYRACUSE, N. Y.

October 23, 1972

SDA PROPOSED MODIFICATIONS TO SDA-GE AGREEMENT

Article I

1. Definition of "working and manufacturing drawings".
2. Limitation of drafting work by non-bargaining unit employees.
3. Add drafting apprentices and GDF job titles.
4. Change "All draftsmen of the Employer's..." to "All employees of the Employer's...".
5. Add test equipment draftsmen and drafting typest.
6. Add computer aided drafting and machine aided drafting.

Article III

1. Add to Step 3: "Most grievances will be answered within 10 working days. If additional time is needed, a time limit will be set by mutual agreement".

Article IV

1. Allow arbitration of individual grievances that involve loss of pay by the individual filing the grievance, the same as arbitration is allowed for disciplinary action.
2. Permit utilizing the State Mediation/ Arbitration Service for arbitrating grievances.

Article VI

1. Service fee to be colocte from bargaining unit employees who have not a orized dues deduction. Service fee to be equal to the SDA dues.
2. Delete language in last paragraph that follows: "at any time".

Article II

1. The following proposal is withdrawn:
   a) Add statement that management will not use their discretion unreasonably.

Article III

1. The following proposal is withdrawn:
   a) Grievances to be filed directly with the responsible manager.

Article IV

1. The proposal has been modified by removing the following:
   a) Seniority, decreasing forces, increasing forces, continuity of service and subcontracting.

Article VI

1. The following proposal is withdrawn:
   a) Penalty for late transmittal of dues/fees.
2. Item 2, at left, has been added.

Exhibit N – Union Notice re Strike Vote, dated 11-7-74
annexed to Davern Affidavit.

SDA SYRACUSE DRAFTSMEN'S ASSOCIATION

MEMBERSHIP MEETING

THURS. NOV. 7, 1974

8:00 PM

AMERICAN LEGION HALL

EASTWOOD

o

NOMINATION OF -

OFFICERS FOR 1975

o

STRIKE VOTE OVER

EXHAUSTED GRIEVANCES

Exhibit M – Union Strike Notice, dated 8-24-71 annexed to Davern Affidavit.

THE SYRACUSE DRAFTSMEN'S ASSOCIATION

SYRACUSE, N. Y.

Room K1, Building 1
Farrell Road Plant
August 24, 1971

Manager-Area Union Relations
Syracuse Works
General Electric Company
Syracuse, New York

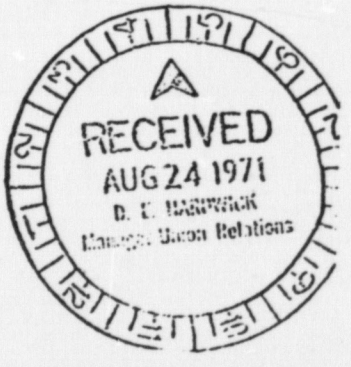
Dear Sir:

We hereby notify you, pursuant to Article XXI of the current GE-SDA Agreement, that there will be a work stoppage commencing at 12:01AM on August 26, 1971.

The grievance over which this work stoppage is being called is SDA Grievance #71-3. The grievance concerned the problem of non-bargaining unit people doing bargaining unit work. This grievance remains unresolved after being processed thru the steps of the grievance procedure set forth in Article III of the Agreement. The work stoppage will involve all employees covered by the SDA bargaining unit.

Sincerely yours,

Charles Dittrich
Chairman
SDA Negotiating Committee



AFFIDAVIT OF THOMAS C. GANGEMI IN OPPOSITION TO CROSS MOTION TO DISMISS, filed 7-15-75.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

THOMAS C. GANGEMI, as President of the SYRACUSE DRAFTMEN'S ASSOCIATION, 7210 Willow Road North Syracuse, New York 13212 Petitioner, -and- GENERAL ELECTRIC COMPANY Electronics Parkway Liverpool, New York 13088 Respondent.	AFFIDAVIT IN OPPOSITION TO RESPONDENT'S MOTION Civil Action No. 75-CV-276

STATE OF NEW YORK)
COUNTY OF ONONDAGA) ss.:

THOMAS C. GANGEMI, being duly sworn, deposes and states that:

1. That deponent is President of the Syracuse Draftmen's Association, Petitioner herein, and is fully familiar with all the facts and circumstances which has transpired to date out of which the above captioned action arises.

2. That deponent has read the Affidavit of John P. Davern sworn to the 8th day of July, 1975 submitted on behalf of Respondent's "cross-motion" in this matter. That with respect to the various paragraphs of this Affidavit listed below, deponent respectfully points out to the Court the following:

§7 - The lack of work and displacement notices distributed on or about November 1, 1974 were not done in accordance with the terms of the parties' contract; and

§8 - Deponent denies the allegations contained in this paragraph; and

§9 - Deponent denies the allegations contained in this paragraph; and

AFFIDAVIT OF THOMAS C. GANGEMI IN OPPOSITION TC CROSS MOTION TO DISMISS, filed 7-15-75.

§10 - Deponent denies the allegations contained in this paragraph; and

§11 - Deponent points out that the Petitioner has repeatedly in the past taken a position and informed the Respondent that it was violating the parties' contract in the manner of applying displacement procedures such as done on or about November 1, 1974; and

§12 - Deponent denies the allegations contained in this paragraph; and

§13 - Deponent respectfully points out to the Court that Article III of the parties' contract is a grievance procedure; and

§14 - Deponent respectfully points out to the Court that although the grievance in this matter is dated November 5, 1974, the Respondent did not render its decision in the last step of the grievance procedure until sometime in February, 1975; and

§21 - Deponent respectfully points out to the Court that the Petitioner in its February 26, 1975 communication (Exhibit D attached to the Petition and Exhibit B attached to the Respondent's papers) requested " . . . to proceed to arbitration . . ." on the parties' grievance. That the Petitioner did not make such request contingent upon the Respondent agreeing to a particular stipulated issue prior to proceeding to arbitration. That Petitioner's request to proceed to arbitration was not based upon its proposed stipulation of the issue to be arbitrated; and

§25 - Deponent respectfully points out to the Court that the parties' current arbitration provision (Article IV) provides for mandatory arbitration of grievances as indicated by the Honorable James T. Foley's Memorandum-Decision and Order (74-CV-492) in a prior action between the parties; and

§26 - Deponent denies the allegations contained in this paragraph; and

AFFIDAVIT OF THOMAS C. GANGEMI IN OPPOSITION TO CROSS MOTION TO DISMISS, filed 7-15-75.

§30-37 - Deponent respectfully submits that any and all documents referred to in these paragraphs speak for themselves and that the interpretation of John P. Davern is inaccurate; and

§38 - Deponent respectfully points out to the Court that the instant proceeding is the first time the Petitioner has ever sought to compel the Respondent to arbitrate a grievance and that the issue presented before the Court with regards to mandatory arbitration has been established by the Honorable James T. Foley, United States District Court Judge in a prior proceeding between the parties.

Thomas C. Gangemi
THOMAS C. GANGEMI

Sworn to before me this 14th day of July, 1975.

Charles E. Blitman
Notary Public

CHARLES E. BLITMAN
Notary Public in the State of New York
Qualified in Onon. Co. No. 34-5346500
My Commission Expires March 30, 1976

MEMORANDUM-DECISION AND ORDER OF JUDGE FOLEY, filed 9-3-75.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE ARBITRATION

between

THOMAS C. GANGEMI, as President of the SYRACUSE DRAFTSMEN'S ASSOCIATION, 7210 Willow Road, North Syracuse, New York 13212,

Petitioner,

and

GENERAL ELECTRIC COMPANY, Electronics Parkway, Liverpool, New York 13088,

Respondent.

75-CV-277

APPEARANCES:

BLITMAN & KING
Attorneys for Petitioner
500 Chamber Building
351 South Warren Street
Syracuse, New York 13202

OF COUNSEL:

CHARLES E. BLITMAN
JULES L. SMITH

BOND, SCHOENECK & KING
Attorneys for Respondent
One Lincoln Center
Syracuse, New York 13202

FRANCIS D. PRICE
JOHN W. HORNBECK

JAMES T. FOLEY, D.J.

MEMORANDUM-DECISION and ORDER

Petitioner, Thomas C. Gangemi, as its President, representing the Syracuse Draftsmen's Association (hereinafter Union), by motion seeks an order from this Court to compel arbitration pursuant to its Collective Bargaining Agreement of 1973 - 1976 (hereinafter Agreement) with the respondent, the General Electric Corporation (hereinafter G.E.). Jurisdiction is predicated on the Labor Management Relations Act, 29 U.S.C. §185 and the Arbitration Act, 9 U.S.C. §4. G.E. moves to dismiss the action upon the grounds that there exists no issue which is referrable to arbitration nor a failure on the part of Respondent (G.E.) to comply with the terms of the Collective Bargaining Agreement.

It must be noted at the onset that this action is based upon and is a sequel to a previous action also brought by petitioner-

MEMORANDUM-DECISION AND ORDER OF JUDGE FOLEY, filed 9-3-75.

ion which sought to enjoin certain procedures used by G.E. for decreasing work forces under Article IX of their Agreement. That action was dismissed by me pursuant to a motion by G.E. on the grounds that grievance and arbitration procedures called for by the Agreement had not been exhausted. See Memorandum-Decision and Order, 74-CV-492 (N.D.N.Y. February 4, 1975). In the instant action, petitioner-union contends that all grievance procedures under the Agreement, Article III, have been completed and that respondent G.E. has refused to agree on the issues to be arbitrated pursuant to Article IV of the Agreement thus causing an impasse. See Petition, Exhib. B-E.

In my previous decision, in addition to holding that the grievance procedures of Article III would have to be exhausted, an effort was made to indicate that the arbitration procedures of Article IV in this Agreement would also impose an obligation of exhaustion before resort could be had to an action in federal court. The issue of whether the arbitration clause was mandatory or permissive was raised by the parties and in particular by G.E. who argued that the petitioner-union would have to attempt arbitration before this Court would have jurisdiction. G.E.'s Memorandum of Law, filed January 2, 1975 (74-CV-492) at p. 11 stated:

> To hold otherwise would render the grievance and arbitration procedures a meaningless device which the plaintiff might or might not choose to follow, at its whim.
> (emphasis supplied).

This analysis of the arbitration clause, it was thought, would expedite the resolution of this case without the necessity of subsequent litigation. See Northwest Airlines, Inc. v. Air Line Pilots Ass'n, Inter., 442 F.2d 251 (8th Cir. 1971)(per curiam), cert. denied, 404 U.S. 871 (1971).

However, in addition to this further litigation of the same issues, the situation has become reversed in that G.E. now contends that while the grievance procedures of Article III are mandatory,

the arbitration procedures of Article IV are permissive. G.E.'s position in the instant case is thus, strictly speaking, not inconsistent with their previous stand except in terms of the spirit of federal labor policy which mitigates in favor of contractual arbitration in solving disputes such as this one, a position G.E. took in the former litigation of these same issues. It is important to note that neither side, in either case, has contested the fact that the subject matter of the action taken by G.E. to reduce the work force is covered by the contract. See Article IX. It has been G.E.'s contention that their action was authorized by the contract and the union's contention that it was done in violation of the contract.

In my judgment, and incorporating my previous decision herein by reference, nothing has been presented by respondent G.E. which would alter the view expressed there that the arbitration clause (Article IV) of the Agreement is mandatory and must be resorted to before any action can be maintained here in this Court. Petitioner's position is essentially based on the reasoning of my previous decision and thus only analysis of G.E.'s contentions are needed here. I find that G.E.'s position that arbitration is permissive cannot be upheld because (1) the cases cited by G.E. are all distinguishable from the instant case in that there was present greater specificity in the literal terms of the collective bargaining agreements of those cases which explicitly excluded mandatory arbitration or which prohibited an intelligible reading of the contract as mandating arbitration; (2) the reassertion of the claim that "may" indicated a permissive arbitration clause is supported by no case law. Indeed, since Republic Steel Corp. v. Maddox, 379 U.S. 650, 658-59 (1965), it has been settled law that the use of the word "may" in the context of a labor agreement's arbitration clause is not permissive; and (3) the suggested interpretation by G.E. that the alternative in pursuing their grievances for the petitioner-union, in the absence of arbitration, for the union to strike is unacceptable. This approach is contrary in my judgment to

federal labor policy, and is something that should be avoided if at all possible, and would be an apparent violation of Article XXI of the Agreement.

The cases cited by G.E. rather than supporting the permissive nature of the arbitration clause in the instant action, I think, provide good examples of the kind of specificity needed to overcome the strong presumption in favor of arbitration; such specificity to exclude compulsory arbitration is not present to my mind in the Agreement here at issue. See e.g., International U., U. A., A. & A. I. W. v. General Electric Co., Inc., 474 F.2d 1172 (6th Cir. 1973); Stillpass Transit Co. v. Ohio Conf. of Team. & Local U. 103, 382 F.2d 940 (6th Cir. 1967); District 50, United Mine Workers v. Chris-Craft Corp., 385 F.2d 946 (6th Cir. 1967). Other cases present instances where the collective bargaining agreement could not be sensibly read to call for compulsory arbitration. See e.g., Faultless Div. v. Local L. No. 2040 of Dist. 153, I. M. & A. W., 513 F.2d 987 (7th Cir. 1975); Affiliated Food Distributors, Inc. v. Local Union No. 299, 483 F.2d 418, 420 (3rd Cir. 1973), cert. denied, 415 U.S. 916 (1974). Neither of these exceptions applies in the instant case in my judgment.

The meaning of the word "may" when it is used in a labor law contract as in Article IV of this Agreement was fully discussed in my previous decision. No exception to this rule applicable here has been cited by G.E. nor have I been able to find one. See Republic Steel Corp. v. Maddox, supra; Bonnot v. Congress of Independent Unions, Local #14, 331 F.2d 355, 359 (8th Cir. 1964)(per Blackmun, J.); Deaton Truck Line, Inc. v. Local Union 612, Etc., 314 F.2d 418, 422 (5th Cir. 1962); Avon Products, Inc. v. International U., U.A.W., Local 710, 386 F.2d 651, 653 n.1 (8th Cir. 1967); Geo. A. Hormel & Co. v. Local U. No. P-31, Amal. Meat C. & B. W., 349 F. Supp. 785, 788 (N.D. Iowa, C.D. 1972); United Transportation U. v. Norfolk & Western Ry. Co., 332 F. Supp. 1170, 1174 (N.D. Ohio, W.D. 1971), compare Teledyne Wis. Mot. v. Local 283, United A., A. & A. I. Wkrs.,

386 F. Supp. 1231 (E.D. Wis. 1975).

Finally, when the Agreement is taken on its face and read as a whole, two other articles lend support to the view that arbitration is mandatory under Article IV. See Blake Construction Co., Inc. v. Laborers' Int. U. of N.A., 511 F.2d 324, 327 (D.C. Cir. 1975). Article XXI -- Strikes and Lockouts -- is the so-called quid pro quo clause of the Agreement which strongly implies that binding grievance and arbitration procedures as provided by Articles III and IV are required and must be resorted to before engaging in the economic warfare of a strike or lockout. Monroe Sander Corporation v. Livingston, 377 F.2d 6, 9 (2d Cir. 1967), cert. denied, 389 U.S. 831 (1967). Thus, even if G.E. were willing to tolerate a strike rather than arbitrate the instant grievances, as it apparently proposes, such a concession does not relieve it of the duty to arbitrate. Globe Seaways, Inc. v. National Marine Eng. Ben. Ass'n., 451 F.2d 1159, 1163 (2d Cir. 1971). When a party asserts that a given grievance is immune from mandatory arbitration and presents justification for a strike, the exclusion must be specific and unmistakable because the consequences might be economic warfare instead of industrial peace which would frustrate the central goal of our national labor policy. Carey v. General Electric Co., 315 F.2d 499 (2d Cir. 1963), cert. denied, 377 U.S. 908 (1964). Since there is no dispute that the merit of the grievances here are determinable -- one way or the other -- under the Agreement, Article IX, this potential resolution under arbitration would seem additional reason to confine the dispute to contractual arbitration.

In terms of the literal requirement of written authorization of Article IV which calls for arbitration, undoubtedly it can be read in different ways -- both as mandatory and permissive. For example, it could be read as an articulation of the principle that an individual grievant cannot force the principal parties, i.e., G.E. and the Union, to arbitrate a dispute which neither wants to arbitrate.

See Black-Clawson Co., Inc. v. International Ass'n of Mach., 313 F.2d 179 (2d Cir. 1962). Or, it could be read to mean that compulsory arbitration can only be had after exhaustion of grievance procedures and the obligation that the parties come to some basic agreement on the issues, etc., in writing. United Aircraft Corp. v. Canel Lodge No. 700, I. A. of M. & A. W., 314 F. Supp. 371, 375 (D. Conn. 1970); aff'd, 436 F.2d 1 (2d Cir. 1970), cert. denied, 402 U.S. 908 (1971).

Its true meaning, as I stated in the previous decision, is penultimately for the arbitrator and only thereafter for a federal court. It is not difficult for a labor contract to have an explicit optional arbitration clause as the cases cited supra indicate. As the Court of Appeals, Second Circuit, has reminded drafters of labor agreements:

> The immediate effect of reading these provisions is a nostalgic reminder that use of the "standard" arbitration clause, combined with the Steelworkers test, considerably eases the task of courts in deciding when to order arbitration. When an arbitration clause begins to resemble a trust indenture, one wonders what gain there is for either party in agreeing to arbitrate at all, other than the questionable joys of litigation.
>
> International U. of E. R. & M. Wkrs. v. General Electric Co., 407 F.2d 253, 258 (2d Cir. 1968), cert. denied, 395 U.S. 904 (1969).

The inherent difficulty which a federal court has in deciding questions of arbitrability explains in no small measure the reasons behind the strong federal policy to leave to the industry itself the task of settling its labor disputes, especially when the controversy has its roots in the language of the contract, as here.

> A dispute may not be kept from the arbitrator on this ground so long as it is "possible", even if as a court we might not think it "reasonable", for an arbitrator to decide in favor of the party demanding arbitration without thereby, in effect, amending the agreement. * * *
>
> Peerless Pr. Met. Corp. v. International U. of E., R. & M. W., 451 F.2d 19, 20 (1st Cir. 1971) (per curiam), cert. denied, 414 U.S. 1022 (1973).

MEMORANDUM-DECISION AND ORDER OF JUDGE FOLEY, filed 9-3-75.

In the previous action (74-CV-492), it was G.E. that lauded the virtues of exhausting all avenues of contractual solution before resort to the courts, yet now it seems desirous to ignore them and, indeed, to go to the extreme and virtually invite a strike. Although the respective positions of the parties has shifted, the presumption in favor of arbitration remains the same.

The motion by petitioner for the court to direct that an arbitration proceed in the manner provided in the Collective Bargaining Agreement is granted. The cross motion of the Respondent to dismiss the petition in the action for such relief hereby granted is denied and dismissed. The issue shall be framed by the arbitrator if so agreed upon or shall be in accord with the issue as discussed at p. 6 of my previous decision entitled Gangemi v. General Electric Co., 74-CV-492, decided February 4, 1975. See Avon Products, Inc. v. International U., U.A.W., Local 710, supra.

It is so Ordered.

Dated: September 3, 1975

Albany, New York

James T. Foley

UNITED STATES DISTRICT JUDGE

NOTICE OF APPEAL, filed 9-23-75.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

IN THE MATTER OF THE ARBITRATION

between

THOMAS C. GANGEMI, as President of the
SYRACUSE DRAFTSMEN'S ASSOCIATION,
7210 Willow Road,
North Syracuse, New York 13212,

Petitioner,

and

GENERAL ELECTRIC COMPANY,
Electronics Parkway,
Liverpool, New York 13088,

Respondent.

NOTICE OF APPEAL

CIVIL ACTION
No. 75-CV-277

Notice is hereby given that the General Electric Company, Respondent above named, hereby appeals to the United States Court of Appeals for the Second Circuit from the order compelling arbitration of the controversy between the parties concerning their rights and obligations under the layoff provisions of the parties' collective bargaining agreement dated July 27, 1973. Said order was entered in this action on the 3rd day of September, 1975.

Dated: September 22, 1975

BOND, SCHOENECK & KING

By: _____
A Partner
Attorney for Respondent
Office and P.O. Address
One Lincoln Center
Syracuse, New York 13202

CC: Charles E. Blitman
Attorney for Petitioner
Office and P.O. Address
BLITMAN AND KING
500 Chamber Building
251 South Warren Street
Syracuse, New York 13202

CIVIL APPEAL PREARGUMENT STATEMENT,
dated 10-2-75.

FORM C

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

CIVIL APPEAL PRE-ARGUMENT STATEMENT

(To be filed by appelant with Clerk of Court of Appeals and served on other parties within ten days after filing notice of appeal.)

(Attach additional sheets if space is not sufficient)

APPEAL FROM DISTRICT COURT

DISTRICT ▶	Northern District of New York
DISTRICT COURT DOCKET NUMBER ▶	75-CV-277
DATE FILED IN DISTRICT COURT ▶	MO. DAY YEAR June 5, 1975
DATE NOTICE OF APPEAL FILED ▶	September 23, 1975
RELATED CASE(S) ▶	---

CASE TITLE (Complete)

In the Matter of the Arbitration Between
THOMAS C. GANGEMI, as President of the
SYRACUSE DRAFTSMEN'S ASSOCIATION,
Petitioner,
and
GENERAL ELECTRIC COMPANY,
Respondent.

Is this a cross appeal: YES ☐ NO ☒

	COUNSEL NAME	ADDRESS	TELEPHONE
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FOR APPELLEES:	BLITMAN & KING	351 South Warren St. Syracuse, New York 13202	(315) 422-7111

(Check One Box Only)

NATURE OF SUIT

CONTRACT	TORTS	ACTIONS UNDER STATUTES: CIVIL RIGHTS	FORFEITURE/PENALTY	PROPERTY RIGHTS
☐ INSURANCE	PERSONAL INJURY	☐ VOTING	☐ AGRICULTURE	☐ COPYRIGHT ☐ TRADEMARK
☐ MARINE	☐ AIRPLANE	☐ JOBS	☐ FOOD & DRUG	☐ PATENT
☐ MILLER ACT	☐ ASSAULT, LIBEL & SLANDER	☐ ACCOMMODATIONS	☐ LIQUOR LAWS	OTHER STATUTES
☐ NEGOTIABLE INSTRUMENT	☐ FEDERAL EMPLOYERS' LIABILITY	☐ WELFARE	☐ R.R. & TRUCK	☐ STATE RE APPORTIONMENT ☐ AGRICULTURAL ACTS
☐ RECOVERY OF OVERPAYMENT & ENFORCEMENT OF JUDGMENT	☐ MARINE	☐ OTHER CIVIL RIGHTS	☐ AIR LINE REGS	☐ ANTI-TRUST ☐ ECONOMIC STABILIZATION ACT
☐ OTHER CONTRACT	☐ MOTOR VEHICLE	PRISONER PETITIONS	☐ OTHER	☐ BANKRUPTCY TRUSTEE ☐ ENVIRONMENTAL MATTERS
REAL PROPERTY	☐ OTHER PERSONAL INJURY	☐ VACATE SENTENCE (2255)	LABOR	☐ BANKS AND BANKING ☐ CONSTITUTIONALITY OF STATE STATUTES
☐ CONDEMNATION	PERSONAL PROPERTY	☐ FAIR LABOR STANDARDS	☐ LABOR/MGMT RELATIONS	☐ COMMERCE ICC RATES, ETC ☐ NARA TITLE III
☐ FORECLOSURE	☐ FRAUD	☐ HABEAS CORPUS	☐ LABOR/MGMT REPORTING & DISCLOSURE ACT	☐ DEPORTATION ☐ OTHER STATUTORY ACTIONS
☐ RENT LEASE & EJECTMENT	☐ OTHER PERSONAL PROPERTY DAMAGE	☐ MANDAMUS	☐ RAILWAY LABOR ACT	☐ SELECTIVE SERVICE
☐ TORTS TO LAND		☐ CIVIL RIGHTS	☒ OTHER LABOR LITIGATION	☐ SECURITIES COMMODITIES EXCHANGE
☐ ALL OTHER REAL PROPERTY				☐ SOCIAL SECURITY
				☐ TAX SUITS

METHOD OF DISTRICT COURT DISPOSITION

Judgment before trial:		Prisoner petition:	
Summary Judgment	☐	Granted	☐
Dismissal	☐	Denied	☐
Other	☐		
Judgment during or after trial:		Injunction:	
Court trial	☐	Granted	☐
Jury trial	☐	Denied	☐
During trial	☐		
Appeal from order:		Damages:	
Preliminary injunction	☐	Granted	☐
Class action	☐	Amount	
Amend answer	☐	$	
Enforce settlement	☐	Denied	☐
Counsel fees	☐	Other relief (specify)	
Stay	☐		
Other	☒		

(Appeal from order compelling arbitration)

APPROXIMATE SIZE OF RECORD ▶ No transcript 100 paces of pleadings and affidavits — NUMBER OF EXHIBITS ▶ 0 — HAS TRANSCRIPT BEEN MADE? YES ☐ NO ☒

BRIEF DESCRIPTION OF NATURE OF CASE AND RESULT BELOW:

Petitioner sought an order compelling arbitration of a grievance arising under a labor agreement. The action was brought pursuant to Section 301 of the LMRA (28 U.S.C. §185) and the United States Arbitration Act (9 U.S.C. §4). The District Court, on motion by the Petitioner, granted an order compelling arbitration.

ISSUES PROPOSED TO BE RAISED ON APPEAL:

Whether the collective bargaining agreement between the parties provides for mandatory arbitration of the grievance in question?

I, Attorney for the Appellant, hereby certify that satisfactory arrangements have been made with the court reporter for payment of the cost of the transcript (FRAP 10 (b)). (Check one box) Transcript unnecessary

☐ (1) have already ordered the transcript to be prepared OR

☐ (2) will order it to be prepared at the time required by the Staff Counsel in the implementation of the Civil Appeals Management Plan.

COUNSEL'S SIGNATURE _____ DATE 10/2/75